



# California Regulatory Notice Register

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## PROPOSED ACTION ON REGULATIONS

### TITLE 2. CALIFORNIA EMPLOYEES' RETIREMENT SYSTEM

*Conflict-of-Interest Code — Notice File No. Z2011-0721-01* ..... 1245

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

*Conflict-of-Interest Code — Notice File No. Z2011-0726-01* ..... 1246

MULTI-COUNTY AGENCIES: Upper Santa Clara Valley Joint Powers Authority

### TITLE 2. DEPARTMENT OF GENERAL SERVICES, REAL ESTATE SERVICES DIVISION

*Appraisal Reports Requirement — Notice File No. Z2011-0726-03* ..... 1247

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

*European Grapevine Moth Interior Quarantine — Notice File No. Z2011-0726-12* ..... 1249

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

*Japanese Beetle Eradication Area — Notice File No. Z2011-0726-14* ..... 1251

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

*Japanese Beetle Exterior Quarantine — Notice File No. Z2011-0726-11* ..... 1252

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

*Melon Fruit Fly Eradication Area — Notice File No. Z2011-0726-13* ..... 1254

### TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION

*Minimum Internal Control Standards (MICS) Phase III; Gambling Floor Operations & House Rules — Notice File No. Z2011-0726-02* ..... 1256

### TITLE 4. CALIFORNIA HORSE RACING BOARD

*Application for License to Conduct a Horse Racing Meet — Notice File No. Z2011-0726-06* ..... 1261

### TITLE 8. WORKERS' COMPENSATION APPEALS BOARD

*WCAB Rules of Practice and Procedure — Notice File No. Z2011-0726-07* ..... 1266

(Continued on next page)

***Time-  
Dated  
Material***

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING	
<i>Triennial Recertification of Academy Instructors — Notice File No. Z2011-0726-08</i>	1268
TITLE 13. CALIFORNIA AIR RESOURCES BOARD	
<i>Moblie Cargo Handling Equipment 2011 — Notice File No. Z2011-0726-05</i>	1270
TITLE 14. DEPARTMENT OF PARKS AND RECREATION	
<i>Grants and Cooperative Agreements Program — Notice File No. Z2011-0726-10</i>	1275
TITLE 17. CALIFORNIA AIR RESOURCES BOARD	
<i>Vapor Recovery Certification and Test Procedures — Notice File No. Z2011-0726-04</i>	1279
<b>GENERAL PUBLIC INTEREST</b>	
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING	
<i>California Employer Identification Report — List of Prospective Contractors Ineligible to Enter into State Contracts</i>	1283
DEPARTMENT OF HEALTH CARE SERVICES	
<i>Medi-Cal Physician Office and Clinic Visit Limit</i>	1283
<b>SUMMARY OF REGULATORY ACTIONS</b>	
Regulations filed with the Secretary of State	1284
Sections Filed, March 2, 2011 to July 27, 2011	1287

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON  
REGULATIONS**

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**TITLE 2. CALIFORNIA EMPLOYEES'  
RETIREMENT SYSTEM**

**NOTICE OF INTENTION TO AMEND THE  
CONFLICT-OF-INTEREST CODE OF THE  
CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM**

NOTICE IS HEREBY GIVEN that the California Public Employees' Retirement System (CalPERS), pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendments to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The California Public Employees' Retirement System proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making, or participation in the making of, decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment reflects the numerous organizational changes that have been made since the current Conflict-of-Interest Code was adopted. It reflects additions and deletions of entire divisions as well as the addition or deletion of classifications within those divisions. Some changes may also reflect changes in job duties or responsibility as well as other technical changes to reflect the current organizational structure of the CalPERS.

In addition, the amendment reflects additional technical and non-substantive revisions as well as two material amendments proposed by the Fair Political Practices Commission (FPPC). First, the FPPC requested that all division chiefs and staff counsel be subject to broader reporting categories similar to that of Board members and other high level staff. In making this recommendation, the FPPC has noted that CalSTRS and

the Treasurer's office have already adopted this broad reporting category for similar classes of employees. In addition, the FPPC suggested that all reporting categories clearly capture economic interests relating to placement agents and other brokers. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than September 19, 2011 or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than September 6, 2011, by contacting the Contact Person set forth below.

The California Public Employees' Retirement System has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The California Public Employees' Retirement System has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential impact on private persons, businesses or small businesses.

In making these proposed amendments, the California Public Employees' Retirement System must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Marte Castaños, Senior Staff Counsel  
CalPERS Legal Office  
P.O. Box 942707  
Sacramento, CA 94229-2707  
916.795.3675  
marte\_castanos@calpers.ca.gov

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

### CONFLICT-OF-INTEREST CODES

#### ADOPTION

Multi-County Agency: Upper Santa Clara Valley  
Joint Powers Authority

A written comment period has been established commencing on **August 5, 2011** and closing on **September 19, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention Cyndi Glaser, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the pro-

posed conflict-of-interest code(s). Any written comments must be received no later than **September 19, 2011**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

### CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 327-5966.

### AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commis-

sion should be made to Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 327-5966.

## **TITLE 2. DEPARTMENT OF GENERAL SERVICES**

### **REAL ESTATE SERVICES DIVISION**

#### **NOTICE OF PROPOSED REGULATORY ACTION**

THE DEPARTMENT OF GENERAL SERVICES, REAL ESTATE SERVICES DIVISION, PROPOSES TO ADOPT REGULATION SECTION 1880, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO APPRAISAL REPORTS FOR THE STATE OF CALIFORNIA FOR ACQUISITION OF CONSERVATION LANDS

NOTICE IS HERBY GIVEN that the Department of General Services (DGS), Real Estate Services Division (RESA), proposes to adopt the above-referenced regulation section contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the DGS, RESA, no later than 15 days prior to the close of the written comment period. If no public hearing is requested, the RESA on its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

#### **AUTHORITY AND REFERENCE CITATIONS**

The RESA is proposing to adopt the above-referenced regulation sections under the authority provided by Section 5096.501(a) and 5096.517 of the Public Resources Code. The proposal interprets and makes specific reference Section 1130, Part 3, Division 4 of the Business and Professions Code and Section 3701, Title 10 of the CCR.

#### **INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT**

The RESA is a full-service real estate organization. Through a diversified team of highly competent and knowledgeable professionals, the RESA's highest priority is to fulfill State agencies' facility and real

property needs. The proposed regulations implement provisions contained in Senate Bill 1285, Chapter 711, Statutes of 2008, and direct the DGS, with approval of the Natural Resources Agency, to develop and adopt standards for the appraisal of resource conservation lands identified as either State agency direct purchase or State-funded grant acquisitions.

Current law provides that the State can purchase conservation lands with the approval of the Director of Department of General Services (DGS) [Government Code Section 11005.2], and in some cases requires DGS appraisal review [FG Section 1348.2, PRC Section 5096.512]. Part of the due diligence involved in that process is the approval of the value or price being paid. There is no existing law providing standards for the appraisal reports being reviewed, except the Business and Professions/CCR reference in paragraph two of these proposed regulations and FG Section 1348.2 and PRC Section 5096.51. This requirement is basically that appraisers must be licensed and therefore their work must conform to the United Standards of Professional Appraisal Practice (USPAP), a set of national standards and guidelines for appraisal reports. There is no provision in law for DGS approval of grant funded acquisitions, unless the State is taking title, agencies often have the DGS review their appraisals as part of their due diligence. So while DGS review appraisal services are called for in law and appraisers must follow the general guidelines in the USPAP, there is nothing that actually sets forth standards for the appraisal reports specifically submitted to the DGS.

#### **IMPACT ON LOCAL AGENCIES**

The RESA has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or individual persons to incur additional costs in order to comply with the proposed regulations.

#### **ECONOMIC IMPACT**

The RESA has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The RESA has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.



- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The RESD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The RESD has made an initial determination that there will be no impact on housing costs.

#### EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of section 4, Title 1, CCR. There is no effect on small business because these regulations are really nothing more than a very basic set of minimum standards, which in general are already consistent with industry practices, and not in excess of standards already required in the USAP for a level of reporting sufficient for efficient review. The licensing requirement is already found in existing law as noted above under “INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW.”

#### SUBMISSION OF COMMENTS, DOCUMENTS, AND ADDITIONAL INFORMATION

Any interested person must present statements, arguments, or contentions, in writing and submit via U.S. mail, e-mail, or fax, to the RESD no later than September 19, 2011 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action, should be addressed to:

Mr. James S. Martin

Mailing Address: Department of General Services  
Real Estate Services Division  
Professional Services Branch  
707 Third Street, 5<sup>th</sup> Floor  
West Sacramento, CA 95605  
E-mail Address: SB1285@dgs.ca.gov  
Fax No.: (916) 375-4149

#### AGENCY CONTACT PERSON

General or substantive questions regarding the Notice of Proposed Regulatory Action may be directed to Mr. James Martin at (916) 375-4032. If Mr. Martin is not available, these questions may be directed to the alternate contact person, Mr. Mike Butler at (916) 375-4152.

#### ADOPTION OF REGULATIONS

Please note that following the public comment period, the RESD may adopt the regulations substantially as proposed in this notice or with modifications which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the RESD adopts the regulations.

#### SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the RESD intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

#### RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the RESD is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the RESD is relying in proposing the adoption.

As data and other factual information, studies, reports, or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the RESD during normal working hours. Items 1 through 3 are also available on the RESD Internet Web-site at: <http://www.dgs.ca.gov/resd>.

#### ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the RESD must determine that no reasonable alternative it considered or that has otherwise

been identified and brought to the attention of the RESD would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Mr. Martin named above in this notice or may be accessed on the Web—site listed above.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

#### Notice of Proposed Rulemaking

#### 45–Day Notice

The Department of Food and Agriculture amended Section 3437(b) of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior Quarantine as an emergency action that was effective on June 27, 2011. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than December 28, 2011.

The Department of Food and Agriculture amended Section 3437(b) of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior Quarantine as an emergency action that was effective on June 15, 2011. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than December 12, 2011.

The Department of Food and Agriculture amended Section 3437(b) of the regulations in Title 3 of the California Code of Regulations pertaining to European Grapevine Moth Interior Quarantine as an emergency action that was effective on May 31, 2011. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 28, 2011.

This notice is being provided to be in compliance with Government Code Section 11346.4.

#### PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov). The written comment period closes at 5:00 p.m. on September 19, 2011. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Stephen Brown  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street  
Sacramento, CA 95814  
[sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov)  
916.654.1017  
916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code (FAC) Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate the pest (FAC Section 5761).

The amendment effective June 27, 2011, established a regulated area surrounding the Aptos area of Santa

Cruz County of approximately 87 square miles. The amendment effective June 15, 2011, established a regulated area surrounding the Nevada City area of Nevada County of approximately 73 square miles. The amendment effective May 31, 2011, established a regulated area in the Grass Valley area of Nevada County of approximately 103 square miles. A total of approximately 2,334 square miles are now under regulation in the State. The effect of the amendment of this regulation was to provide authority for the State to perform quarantine activities against EGVM within these regulated areas of Nevada and Santa Cruz counties.

There is no existing, comparable federal regulation or statute.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no other non-discretionary costs or savings to local agencies or school districts.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The estimated cost impact of the adopted regulation on a representative private person or business is not expected to be significantly adverse. A representative business could incur costs of approximately \$881.

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

#### *Small Business Determination*

The Department has determined that the proposed regulations may affect small business.

#### ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and

brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

#### AUTHORITY

The Department adopted Section 3437 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code of California.

#### REFERENCE

The Department adopted Section 3437 to implement, interpret and make specific Sections 5301, 5302 and 5322, Food and Agricultural Code.

#### CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Lindsay Rains at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

#### INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site ([www.cdfa.ca.gov/cdfa.pendingregs](http://www.cdfa.ca.gov/cdfa.pendingregs)).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.



If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

#### Notice of Proposed Rulemaking

##### 45-Day Notice

The Department of Food and Agriculture amended subsection 3589(a) of the regulations in Title 3 of the California Code of Regulations pertaining to Japanese Beetle Eradication Area as an emergency action that was effective on July 15, 2011. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 11, 2012.

This notice is being provided to be in compliance with Government Code Section 11346.4.

#### PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov). The written comment period closes at 5:00 p.m. on September 19, 2011. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Stephen Brown  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street  
Sacramento, CA 95814  
[sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov)  
916.654.1017  
916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3589, subsection (a), was amended and established Placer and Sacramento counties as eradication areas for Japanese beetle, *Popillia japonica*. The effect of this action was to establish authority for the State to conduct eradication activities in Placer and Sacramento counties. There is no existing, comparable federal regulation or statute.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.  
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

#### *Small Business Determination*

The Department has determined that the regulations may affect small business.

### ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

### AUTHORITY

The Department amended Section 3589, subsection (a), pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

### REFERENCE

The Department amended Section 3589, subsection (a), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

### CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street,

Room 210, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Lindsay Rains at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

### INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site ([www.cdfa.ca.gov/phpps/Regulations.html](http://www.cdfa.ca.gov/phpps/Regulations.html)).

### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

## TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

### Notice of Proposed Rulemaking

The Department of Food and Agriculture proposes to amend Section 3280 of the regulations in Title 3 of the California Code of Regulations pertaining to the Japanese beetle Exterior Quarantine.

### PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

## WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [lrains@cdfa.ca.gov](mailto:lrains@cdfa.ca.gov). The written comment period closes at **5:00 p.m. on September 19, 2011**. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Lindsay Rains  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street Room 210  
Sacramento, CA 95814  
[lrains@cdfa.ca.gov](mailto:lrains@cdfa.ca.gov)  
916.654.1017  
916.654.1018 (FAX)

## AUTHORITY AND REFERENCE

Food and Agricultural Code Sections 407, 5301, and 5302 authorize the Department to amend these regulations. The proposed revisions are to a regulation that interprets and makes specific Sections 5301 and 5302 of the Food and Agricultural Code.

## INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Existing law provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as she deems necessary to protect the agricultural industry from the introduction and spread of pests and to make and enforce such regulations to prevent any plant or thing which is, or is liable to be infested or infected by, or a carrier of any pest from passing over any quarantine line (Food and Agricultural Code, Sections 401, 403, 407, 5301 and 5302).

Section 3280 was adopted and established Japanese beetle, *Popillia japonica*, as a quarantine pest, the entire states of Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia and parts of Alabama, Kansas, Minnesota, Missouri, Wisconsin and Canada as quarantine areas, the articles and commodities covered, restrictions and that the Director may issue special permits. This amendment would update the quarantined areas and exceptions to movement restrictions to align

the California exterior quarantine with the National Plant Board's Japanese Beetle Harmonization Plan. The plan was created to assure that the pest risks associated with movement of plant material were acceptably managed and to facilitate the orderly marketing of nursery stock and other regulated commodities between states. Adopted by the National Plant Board on August 19, 1998, it was most recently revised on April 12, 2011. There is no existing, comparable federal regulation or statute.

## DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.  
Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impact on a representative private person or businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Amendment of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

### *Small Business Determination*

The Department has determined that the amendment of these regulations will affect small business.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

#### **CONTACT PERSON**

Inquiries concerning the proposed administrative action may be directed to:

Lindsay Rains  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street Room 210  
Sacramento, CA 95814  
[lrains@cdfa.ca.gov](mailto:lrains@cdfa.ca.gov)  
916.654.1017  
916.654.1018 (FAX)

In her absence, you may contact Stephen Brown at the same phone number.

#### **INTERNET ACCESS**

The Department has posted the information regarding this proposed regulatory action on its Internet website (<http://www.cdfa.ca.gov/phpps/Regulations.html>).

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all of the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named above.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named above.

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Rains at the above address.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Department may amend the proposed regulations substantially as described in this notice.

If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Lindsay Rains at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons will be posted on the Department's web site or a copy may be obtained by contacting Ms. Rains at the address listed above.

### **TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

#### **Notice of Proposed Rulemaking**

##### **45-Day Notice**

The Department of Food and Agriculture amended subsection 3591.15(a) of the regulations in Title 3 of the California Code of Regulations pertaining to Melon Fruit Fly Eradication Area as an emergency action that was effective on June 28, 2011. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than December 27, 2011.

This notice is being provided to be in compliance with Government Code Section 11346.4.

#### **PUBLIC HEARING**

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.



## WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov). The written comment period closes at 5:00 p.m. on September 19, 2011. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Stephen Brown  
Department of Food and Agriculture  
Plant Health and Pest Prevention Services  
1220 N Street  
Sacramento, CA 95814  
[sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov)  
916.654.1017  
916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The amendment of subsection 3591.15(a) established Fresno County as an eradication area for the melon fruit fly, *Bactrocera cucurbitae*. The effect of this action was to establish authority for the State to conduct eradication activities in Fresno County against this pest. There is no existing, comparable federal regulation or statute.

## DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.  
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no other non-discretionary costs or savings to local agencies or school districts.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

### *Small Business Determination*

The Department has determined that the proposed regulations may affect small business.

## ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

## AUTHORITY

The Department proposes to amend subsections 3591.15(a) pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

## REFERENCE

The Department proposes to amend subsections 3591.15(a), to implement, interpret and make specific

Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

#### CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Lindsay Rains at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

#### INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site ([www.cdfa.ca.gov/cdfa.pendingregs](http://www.cdfa.ca.gov/cdfa.pendingregs)).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

## TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION

### NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING

#### MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR GAMBLING ESTABLISHMENTS — PHASE III; GAMBLING FLOOR OPERATIONS AND HOUSE RULES

CGCC-GCA-2011-02-R

**NOTICE IS HEREBY GIVEN** that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the proposed regulatory action at a public hearing to be held at **10:00 a.m. on November 3, 2011**, at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on September 19, 2011. Written comments will also be accepted at the above-referenced hearing.

Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on September 19, 2011**, or provided to the Commission at the above-referenced hearing. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

#### ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are suffi-

ciently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19801, 19811, 19824, 19826, 19840, 19841, 19861, 19920, 19924 and 19984 of the Business and Professions Code; and to implement, interpret or make specific sections 19801, 19805, 19823, 19826, 19841, 19860, 19861, 19914, 19920, 19924 and 19984 of the Business and Professions Code,<sup>1</sup> and sections 330 and 330.11 of the Penal Code, the Commission is proposing to adopt the following changes to Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

#### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

##### INTRODUCTION:

The California Gambling Control Commission (Commission) is the state agency charged with the administration and implementation of the California Gambling Control Act (Act).<sup>2</sup> The Commission is authorized to adopt regulations governing the operation of gambling establishments (cardrooms) in California.<sup>3</sup> Specifically, the Commission is mandated to adopt regulations on the subjects enumerated in Business and Professions Code, section 19841. Regulations concerning the establishment of minimum policies and procedures by owner licensees to exercise effective control over their gambling affairs have been prepared in compliance with section 19840<sup>4</sup> and subdivisions (h) and (o) of section 19841.<sup>5</sup>

<sup>1</sup> All statutory references hereafter are to the Business and Professions Code, unless otherwise specified.

<sup>2</sup> Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

<sup>3</sup> Business and Professions Code section 19840.

<sup>4</sup> Section 19840 provides, in pertinent part, that “[t]o the extent appropriate, regulations of the Commission . . . shall take into consideration the operational differences of large and small establishments.”

<sup>5</sup> Subdivision (h) of section 19841 mandates that the Commission’s regulations shall “[p]rescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs. . . .” as specified. Subdivision (o) of section 19841 mandates that the Commission’s regulations shall “[r]estrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

Gambling is the quintessential cash business and internal controls are the primary procedures used to protect the integrity of cardroom funds and games. Internal controls are therefore a vitally important part of properly regulated gambling.

##### SPECIFIC PROPOSAL:

In general, this proposed action has been drafted in an attempt to establish uniform procedures and standards to assist the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) in meeting their oversight responsibilities under the Gambling Control Act (Act)<sup>6</sup>, while taking into account variations in the size of gaming operations. More importantly, the proposed action is intended to provide for minimum standards that protect public health, safety and general welfare.<sup>7</sup> These regulations establish a baseline for Gambling Establishment (cardroom) operation, by requiring that licensees establish and implement written policies and procedures that meet or exceed the prescribed Minimum Internal Control Standards (MICS), as they relate to the established size category of the individual licensee. Establishing baseline standards helps to ensure consistency and uniformity.

##### EXISTING LAW:

Business and Professions Code section 19811, subdivision (b), provides the Commission with the primary jurisdiction over all persons and things having to do with the operations of gambling establishments within the state.

Business and Professions Code section 19826, in pertinent part, assigns the Bureau with the responsibility to investigate suspected violations of the Act; to investigate complaints against licensees; to initiate appropriate disciplinary actions; and, to approve the play of any controlled game, as specified.

Business and Professions Code section 19840 allows the Commission to adopt regulations for the administration and enforcement of the Act.

Business and Professions Code section 19841, subdivision (h), mandates that the Commission’s regulations shall “[p]rescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs,” as specified. Subdivision (i) provides that the Commission’s regulations shall “[r]estrict, limit or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of” the Act.

Business and Professions Code section 19861 provides criteria and conditions for the issuance of a gam-

<sup>6</sup> Business and Professions Code, Division 8, Chapter 5, section 19800 et seq.

<sup>7</sup> Business and Professions Code, section 19920

bling license for a gambling establishment that may not be open to the general public, as specified.

Business and Professions Code section 19924 mandates that owner-licensees maintain security controls over the gambling premises and all operations therein related to gambling, subject to the approval of the Commission.

**EFFECT OF REGULATORY ACTION:**

This proposed action would make the following specific changes in Articles 1 and 3 of Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

1. Amend Section 12360. Chapter Definitions.

Within Article 1, Section 12360 provides definitions for the words that govern the construction of Chapter 7. This section currently incorporates the definitions in Business and Professions Code section 19805 and includes specific definitions for the words "licensee", "security department" and "surveillance unit."

- a. This proposed action would amend Section 12360 by incorporating the definitions in Section 12002.
- b. This action would add a definition for the term "gaming activity." Proposed Section 12360(a) would define "gaming activity" as meaning the same as currently defined in Title 11, CCR, Section 2010(f).
- c. This action would add a definition for the terms "house prop player" and "public relations player." Proposed Section 12360(b) would define "house prop player" and "public relations player" as meaning a gambling enterprise employee whose duties include, but are not necessarily limited to, playing in controlled games for the purpose of starting or continuing a game.
- d. This action would also add a definition for the term "house rules." Proposed Section 12360(c) would define "house rules" as those which set general parameters under which a gambling enterprise operates the play of controlled games.
- e. This action would also correct the statutory reference for the definition of "licensee" in the current subsection (c), renumbered as (d), to conform to a recent statutory change.
- f. Existing subsections would be renumbered to conform to this action and additional non-substantive editorial and grammatical changes would be made which have no regulatory effect.

2. Adopt Section 12391. Gambling Floor Operations.

This proposed action would establish new Section 12391 within Article 3. Section 12391 would require cardrooms to adopt specified minimum policies and procedures that relate to the operation of the gambling floor.

- a. Subsection (a), paragraph (1) would require cardrooms to have a policy stating that their gambling floor must be *open to the public*. This proposed regulation also provides for exceptions to this *open-to-the-public* rule should the provisions of Business and Professions Code section 19861 apply to any cardroom in the state. This proposed regulation would allow for additional exceptions when any of the following Business and Professions Code sections apply:
  - Section 19844 (Exclusion or Ejection of Individuals from Gaming Establishment)
  - Section 19845 (Removal of Persons from Licensed Premises; Reasons)
  - Section 19921 (Persons Under 21; Areas of Access)
- b. Subsection (a), paragraph (2) would require a cardroom to have policies and procedures that place conditions on the use of "house prop players" and "public relations players." When playing controlled games, house prop players and public relations players would be required to:
  - (A) Hold a valid work permit or key employee license, and wear their work permit or key employee badge;
  - (B) Comply with all house and game rules applicable to the game being played;
  - (C) Comply with all laws and regulations applicable to the play of controlled games;
  - (D) Not accept the deal when playing a California Game;
  - (E) Not use house funds to wager bets;
  - (F) Not be the house dealer for the game being played; and
  - (G) Leave the table when a waiting list exists for the game being played.



- c. Subsection (a), paragraph (3) would require owners and employees of cardrooms to comply with house and game rules and the applicable laws and regulations when playing controlled games on the premises of their own cardroom.
  - d. Subsection (a), paragraph (4) would prohibit a licensee from *requiring* that their employees play controlled games on the premises of the cardroom where they are employed. This paragraph would not apply to house prop players and public relations players.
  - e. Subsection (a), paragraph (5) would require a licensee to maintain specified information relating to gaming table operation. The following information must be maintained, by shift and by date:
    - (A) The tables that were open,
    - (B) The games that were played and the collection rates,
    - (C) The total time that each table was in use, and
    - (D) The names of the house dealers that were assigned to work the tables.
  - f. Subsection (a), paragraph (6) would require that the information in paragraph (5) be made available to the Bureau within two hours of their request, when the request is made during normal business hours. If the request is made after normal business hours, the cardroom would have until two hours after the start of the next business day to provide the information.
  - g. Subsection (a), paragraph (7) would prohibit a licensee from having on the gambling floor more gaming tables than that which is authorized by the license, unless all excess tables are covered or prominently labeled as non-operational and are under continuous video surveillance.
  - h. Subsection (a), paragraph (8) would require that the purchase or redemption of chips be transacted only by designated cardroom employees who have received the training required by section 103.64 of Title 31 of the Code of Federal Regulations. The policies and procedures put in place regarding this regulation must also ensure compliance with Section 12404 in Article 4, which also regulates these types of transactions.
  - i. Subsection (a), paragraph (9) would prohibit a licensee from providing house funds to any person for the purposes of playing a controlled game, except when extending credit, pursuant to Section 12388, and when providing payment to a third-party provider of proposition player services, in accordance with a Bureau-approved contract, pursuant to Section 12200.9.
  - j. Subsection (b) would require Tier III through V cardrooms to have at least one owner-licensee or key employee on duty during all hours of operation to supervise gambling operations and insure compliance with the Act and its regulations.
  - k. Subsection (c) would require cardrooms to implement the provisions of Section 12391 no later than six months following the effective date of the regulation.
3. Adopt Section 12392. House Rules.  
 This proposed action would also establish new Section 12392 within Article 3. Section 12392 would require cardrooms of all tiers to adopt specified minimum policies and procedures regarding house rules.
- a. Subsection (a) would require cardrooms to adopt and implement house rules, written in English, which promote the fair and honest play of controlled games and gaming activity. This section would also require that the house rules:
    - (1) Allow for the play of only those games that are permitted by local ordinances and state and federal laws and regulations;
    - (2) Address player conduct, etiquette and other general rules so as to promote the orderly conduct of controlled games and gaming activities;
    - (3) Include provisions that discourage players from, during the play of a hand, speaking in a language, or using any other form of communication, that is not understood by all persons at the table;
    - (4) Not conflict with Bureau-approved *game rules*; and
    - (5) Address the following situations as they may apply during the play of a controlled game or gaming activity:
      - (A) Customer conduct,
      - (B) Table policies,
      - (C) Betting and Raising,

- (D) "Misdeals,"
  - (E) Irregularities,
  - (F) "The Buy-In,"
  - (G) "Tied Hands,"
  - (H) "The Showdown,"
  - (I) "House Way,"
  - (J) Player Seating and Seat Holding, and
  - (K) Patron Disputes.
- b. Subsection (b) would require that house rules be readily available and provided to patrons and the Bureau upon request.
  - c. Subsection (c) would require cardrooms to implement the provisions of Section 12392 no later than six months following the effective date of the regulation.

#### **FISCAL IMPACT ESTIMATES**

##### **FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:**

None.

##### **NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:**

None.

##### **MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:**

None.

##### **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:**

None.

##### **IMPACT ON BUSINESS:**

The Commission has made an initial determination that the proposed regulatory action may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following types of businesses would be affected:

- Gambling enterprises that do not already have internal control standards in place that are in compliance with the minimum standards proposed by these regulations.

The following reporting, recordkeeping or other compliance requirements are projected to result from the proposed action:

1. Maintenance of written policies and procedures for minimum internal control standards.
2. Maintenance of documentation and records for the operation and staffing of gambling tables.
3. The possible addition of one key employee per shift to supervise gambling operations.
4. The printing of house rules to insure their availability to patrons and the Bureau.

The Commission has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

- (A) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (B) Consolidation or simplification of compliance and reporting requirements for businesses.
- (C) The use of performance standards rather than prescriptive standards.
- (D) Exemption or partial exemption from the regulatory requirements for businesses.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence that supports this determination.

##### **IMPACT ON JOBS/NEW BUSINESSES:**

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California.

##### **COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:**

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Commission, are:

1. Maintenance of written policies and procedures for minimum internal control standards.
2. Maintenance of documentation and records for the operation and staffing of gambling tables.
3. The possible addition of one key employee per shift to supervise gambling operations.
4. The printing of house rules to insure their availability to patrons and the Bureau.

##### **EFFECT ON HOUSING COSTS:**

None.

##### **EFFECT ON SMALL BUSINESS:**

The Commission has determined that the proposed regulatory action may affect small businesses, if any affected cardroom would qualify as a small business.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

## INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

## AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

## CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Manager  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220, Sacramento,  
CA 95833-4231  
Telephone: (916) 263-4024  
Fax: (916) 263-0452  
E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Shannon George, Research Program Specialist I  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220, Sacramento,  
CA 95833-4231  
Telephone: (916) 263-4904  
Fax: (916) 263-0452  
E-mail: sgeorge@cgcc.ca.gov

## WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission's Web site at [www.cgcc.ca.gov](http://www.cgcc.ca.gov).

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### NOTICE OF PROPOSAL TO AMEND RULE 1433. APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

## PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1433, Application for License to Conduct a Horse Racing Meeting. The proposed amendment would modify the forms CHRB-17, Application for License to Conduct a Horse Racing Meeting (Rev. 07/11), and CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair (Rev. 07/11), which are incorporated into Rule 1433 by reference. The proposed amendment to forms CHRB-17 and CHRB-18 will capture information regarding how an association will implement new program changes as well as the financial health of an applicant.

## PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, September 22, 2011**, or as soon after that as business before the Board will permit, at the **Los Angeles County Fair, Fairplex Park, 1101 West McKinley Avenue, Pomona, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

## WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on September 19, 2011**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Andrea Ogden, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6033  
Fax: (916) 263-6022  
E-Mail: [andreaog@chrb.ca.gov](mailto:andreaog@chrb.ca.gov)

## AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19480 and 19562, Business and Professions Code.

Business and Professions Code sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19480 and 19562, Business and Professions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code sections 19420 states jurisdiction and supervision over meetings in California where horse races with wagering on their results are held, and over all persons or things having to do with the operation of such meetings, is vested in the Board. Business and Professions Code sections 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall in-

clude, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code sections 19480 states the Board may issue to any person who makes application therefor in writing, who has complied with the provisions of this chapter, and who makes deposit to secure payment of the license fee imposed by this article, a license to conduct a horse racing meeting. Business and Professions Code sections 19562 states the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State.

The Board proposes to amend Rule 1433, Application for License to Conduct a Horse Racing Meeting. Board Rule 1433 was last amended in 2006; however, in the intervening period of time the industry has experienced changes in the form of new programs, as well as financial uncertainty. The proposed amendment of Rule 1433, Application for License to Conduct a Horse Racing Meeting, would modify forms CHRB-17, Application for License to Conduct a Horse Racing Meeting, and CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair, which are incorporated by reference into Rule 1433 to reflect these changes.

The proposed changes to form CHRB-17, Application for License to Conduct a Horse Racing Meeting, and CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair are as follows:

The Applicant Association, section 1, of both forms was expanded to collect contact information for the applicants. CHRB form 17, section 1A, has been modified to require a contact email address for the applicant association's contact person. CHRB form 18, section 1C, has been modified to require a contact name, telephone number and email address for the applicant fair's contact person. The changes will assist staff in its communication with the applicant.

Subsection 1E, Applicant Association, section of form CHRB-17 is a new subsection that requires the applicant to attach a one hundred thousand dollar surety bond. This modification will help staff determine if a surety bond is required. Business and Professions Code section 19464(b) provides that no application for a license to conduct a race meeting shall be granted unless the applicant has deposited with the Board a surety bond in the amount of one hundred thousand dollars, or a greater amount as determined by the Board, which is sufficient to ensure payment of employee wages and benefits including, but not limited to, health, welfare and pension plans. The provision does not apply to an association licensed to operate a race meeting prior to



January 1, 2001, which has conducted a race meeting in each of the immediate three previous consecutive calendar years.

The Dates of the Race meeting, section 2, subsection A, of both forms has been modified to require the inclusive allocated dates for the entire race meeting. The changes to CHRB form 17 will provide clarity by having the racing association report the inclusive allocated dates, while subsection B of section 2 will provide the actual racing dates. CHRB form 18, subsection B was modified to capture the specific dates racing will be held. Subsection C was modified to capture the days of the week races will be held. The changes were made to determine the difference between the inclusive allocated dates for the race meeting and the actual dates racing will be held.

Section 4, Racing Association, subsection C, of form CHRB-17 has been modified to capture information regarding the parent and/or paired company of a racing association. These changes will allow the Board to collect information about the corporate parent and/or paired company if applicable. Some racing associations have multiple layers of corporate owners and this will provide information about the actual structure of the organization.

Section 4, Racing Association, subsection D, of form CHRB-17 has been modified to make the questions more applicable to limited liability corporations and to better determine the true ownership of such corporations. These changes will allow the Board to collect limited liability corporation information, if applicable.

Section 4, Racing Association, subsection F, Financial Information, of form CHRB-17. This subsection has been modified to clarify the financial information an applicant association must provide. The subsection spells out the items that must be included in the audited annual financial statement or financial report, including balance sheet, profit and loss statement, etc. This addition provides the applicant with clarification on what the Board will accept as financial documentation. The "Notice to Applicant" informs the applicant that under Government Code section 6254(k) the financial information is exempt from disclosure and will be kept confidential.

Section 4, Racing Association, subsection G, Management and Staff, of form CHRB-17 has been modified to require a contact email address of the staff member authorized to receive notices on behalf of the applicant. The collection of the email address will assist staff in its communication with the applicable party.

A new section 5 titled "Takeout Percentage" was added to forms CHRB-17 and CHRB-18. The new subsection is designed to capture information regarding whether the thoroughbred racing and fair association intends to adjust the takeout percentage deducted from

any type of wager. Business and Professions Code section 19601.1 allows a thoroughbred racing association or fair to adjust the takeout with the written agreement of the horsemen's organization and approval of the Board, as specified. This change will provide a uniform process to request approval for changes in takeout percentages.

A new section 6 titled "Handle History" was added to forms CHRB-17 and CHRB-18. The new subsection will capture information regarding (up to) the last five years of handle and attendance for the racing and fair association. The subsection will provide a visual history of handle and attendance over time and will clearly demonstrate whether handle and attendance have increased or decreased.

Section 7, Purse Program, of forms CHRB-17 and CHRB-18, has been modified to clarify the numbers submitted for the purse program. It excludes supplements, nominations, sponsorships and starter fees. This change will ensure uniformity of the purse program numbers received. This is necessary because applicants were reporting different purse structure information. Some were including supplements, nominations, sponsorship and starter fees and others were not.

Section 7, Purse Program, subsection A4, of forms CHRB-17 and CHRB-18, were modified to capture the total purse figures for the current and prior race meeting. The information will provide a visual history for comparison of past and current race meetings, and will show whether total purses have increased, remained static, or declined.

Section 7, Purse Program, subsection C, of CHRB form 17 and subsection B of CHRB form 18, were amended to state that the purse figures submitted for California-bred incentive awards should include breeder awards and owners premiums. Previously, applicants were not reporting uniform purse figures. This change will ensure uniformity of the purse program numbers received.

Section 7, Purse Program, subsection F, of CHRB form 17 and subsection E of CHRB form 18, were amended to state that the purse figures submitted for the on-track and intrastate off-track handle should exclude carryovers from prior race meets. Previously, applicants were not reporting uniform purse figures. This change will ensure uniformity of the purse program numbers received.

Section 7, Purse Program, subsection I, of CHRB form 17 and subsection H of CHRB form 18, has been modified to require an email address for the pari-mutuel audit firm. The collection of the email will assist staff in its communication with the applicable party.

Section 8, Stable Accommodations, subsection F, of form CHRB-17 has been modified to include the Business and Profession Code section on which the question

is based. The change provides the applicant with the statutory authority for the requirement. This is consistent with other sections where statutory authority has been provided.

Section 9, Pari-Mutuel Wagering Program, subsection D, of CHRB form 17 and CHRB form 18, has been modified to require the specific days and times early bird wagering will be offered. The amendment clarifies when early bird wagering will be offered. This will allow the Board to determine if such wagering will be able to accommodate races that may occur in Eastern Time zones.

Section 10, Advance Deposit Wagering (ADW), subsection B, of CHRB form 17 and CHRB form 18, has been modified to collect a copy of the agreements between the racing association applicant and each ADW provider to be used for the race meeting. Subsection C, was modified to verify that the ADW agreements have been approved by the respective horsemen's group. Business and Profession Code section 19604 includes specific provisions that must be met before an ADW provider can accept wagers. This ensures the entities are in compliance with Business and Professions Code section 19604 prior to the beginning of the race meeting.

Section 11, Simulcast Wagering Program, of forms CHRB-17 and CHRB-18, has been modified to require a list of California minisatellite wagering facilities to which the association proposes to offer its live audio-visual signal. The amendment provides the Board with a record of whom the applicant will allow access to its simulcast signal.

Subsection C, Racing Officials, Officials, and Officiating Equipment, section of both forms (sec. 13 of CHRB-17 and sec. 12 of CHRB-18) has been modified to require an email address for the reporter preparing the transcripts of hearings. The collection of the email address will assist staff in its communication with the applicable party.

Security Controls, section of both forms (sec. 14 of CHRB-17 and sec. 13 of CHRB-18), has been modified to delete the word "barn" and replace it with "stall". This change was made for the purpose of clarity and consistency.

Emergency Services, subsection A and B, of both forms (sec. 15 of CHRB-17 and sec. 14 of CHRB-18) has been modified to require a certification from the ambulance service company that the paramedic staff is licensed. The change ensures that ambulance paramedic staff is properly certified with the California Emergency Medical Services Authority.

CHRB form 17, Section 15, Emergency Services, subsection D1, has been modified to include the Business and Professions Code section on which the question is based. The change provides the applicant with the statutory authority for the requirement. This is con-

sistent with other sections where statutory authority has been provided.

The Concessionaires and Service Contractors section of both forms (sec. 16 of CHRB-17 and sec. 15 of CHRB-18) has been modified to determine if the racing and fair association applicant provides its own concessions at the race meet. The change will clarify who will provide concessions at the race meeting, and will assist staff in determining if it needs to ensure any food vendors have the appropriate license.

On-Track Attendance/Fan Development, subsection A, of both forms (sec. 17 of CHRB-17 and sec. 16 of CHRB-18) has been modified to require a copy of the promotional and marketing plans for the race meeting. Subsection B was modified to include promotional and marketing budgets for proposed and prior race meetings. This change will provide a comparison between past and current meeting figures. The Board wishes to ensure the racing associations pay attention to the need for innovative marketing.

Track Safety, subsection B, of both forms (sec. 21 of CHRB-17 and sec. 20 of CHRB-18) was modified to require a description of the track surface at the racing facility. Subsection C was modified to collect the percentage of cross slope in the straight-aways and center of the turns on the track. The changes were implemented to collect data on the track composition and slope for comparison of races that were run injury free to those that resulted with injury occurrences. This will assist the Board in compiling data for its ongoing race track safety program.

Other proposed changes to form CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair are as follows: Section 4, D, Fair Association, section has been modified to collect the contact information (name, title, mailing and email address) for the party authorized to receive notices on behalf of the fair. The collection of the contact information will assist staff in its communication with the applicable party.

Section 9, Pari-Mutuel Wagering Program, subsection A has been modified to determine if the fair racing association is a member of California Authority of Racing Fairs (CARF). Subsection B has been modified to state which of the wagers listed will use the CARF recommended wagering format. Some of the fairs use the CARF recommended wagering format and others do not. The change will clarify which wagering program is being used by the fair applicants.

Section 14, Emergency Services, subsection I has been modified to require the name of the workers' compensation insurance carrier and policy number. The change captures the applicant's insurance information for the record.

All other changes to the forms CHRB-17 and CHRB-18 are for the purpose of clarification, consistency, renumbering and grammar.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rule 1433 will not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1433 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1433 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the

regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Andrea Ogden, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6033  
E-mail: [andreaogden@chrb.ca.gov](mailto:andreaogden@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Harold Coburn, Regulation Analyst  
Telephone: (916) 263-6397

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Andrea Ogden, or the alternative contact person at the address, phone number or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Andrea Ogden at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Andrea Ogden at the address stated above.



BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

**TITLE 8. WORKERS' COMPENSATION  
APPEALS BOARD**

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
WORKERS' COMPENSATION APPEALS  
BOARD**

**NOTICE OF PROPOSED RULEMAKING  
RULES OF PRACTICE AND PROCEDURE**

**TITLE 8, CALIFORNIA CODE OF  
REGULATIONS, SECTIONS 10300 THROUGH  
10999**

**NOTICE IS HEREBY GIVEN** that the Workers' Compensation Appeals Board (WCAB) proposes to amend its Rules of Practice and Procedure (Rules)<sup>1</sup> relating to lien claims, as described below, after considering all comments, objections, and recommendations regarding the proposed action. Equal weight will be accorded to oral and written comments.

The WCAB's proposed amendments to its Rules are being initiated pursuant to its rulemaking power under Labor Code sections 5307(a), 133, 5309 and 5708,<sup>2</sup> subject to the procedural requirements of section 5307.4. This Notice of Proposed Rulemaking and accompanying Initial Statement of Reasons have been prepared to comply with the procedural requirements of section 5307.4 and for the convenience of the regulated public to assist it in analyzing and commenting on this largely non-APA rulemaking process.<sup>3</sup>

<sup>1</sup> See Cal. Code of Regs., Title 8, Chapter 4.5, Subchapter 2, section 10300 et seq.

<sup>2</sup> All further statutory references are to the Labor Code unless otherwise specified.

<sup>3</sup> Under Government Code section 11351, the WCAB is not subject to Article 5 (Gov. Code § 11346 et seq.), Article 6 (*id.* § 11349 et seq.), Article 7 (*id.* § 11349.7 et seq.), or Article 8 (*id.* § 11350 et seq.) of the rulemaking provisions of the Administrative Procedure Act (APA), with the sole exception that section 11346.4(a)(5) [publication in the California Regulatory Notice Register] does apply to the WCAB.

PUBLIC HEARING

The WCAB will hold a public hearing starting at 10:00 a.m. on Thursday, September 8, 2011, in the Santa Barbara Room, Basement Level, of the Hiram Johnson State Office Building located at 455 Golden Gate Avenue, San Francisco, California. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. Public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation. To provide everyone with an opportunity to speak, public testimony will be limited to 10 minutes per speaker and should be specific to the proposed regulations. Testimony which would exceed 10 minutes may be submitted in writing. If public comment concludes before the Noon recess, no afternoon session will be held.

The state office building and its hearing rooms are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodations to facilitate effective communication for persons with disabilities, are available upon request. Please contact the State-wide Disability Accommodation Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

The WCAB requests but does not require that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representatives, may submit written comments to the WCAB relevant to the proposed rulemaking. The written comment period closes at 5:00 p.m. on September 8, 2011. The WCAB will consider only comments it has received by that time. The address for submission of comments by e-mail is [WCABRules@dir.ca.gov](mailto:WCABRules@dir.ca.gov). The address for submission of comments by mail is: Neil P. Sullivan, Assistant Secretary and Deputy Commissioner, Workers' Compensation Appeals Board, P.O. Box 429459, San Francisco, CA 94142-9459. The address for submission of comments by delivery service or personal delivery is: Neil P. Sullivan, Assistant Secretary and Deputy Commissioner, Workers' Compensation Appeals Board, 455 Golden Gate Avenue, Ninth Floor, San Francisco, CA 94102. Comments also may be submitted by facsimile (Fax) at 1-415-703-4549.

The WCAB prefers written comments to oral testimony and prefers written comments submitted by e-



mail. If written comments have been submitted, it is not necessary to present oral testimony at the public hearing.

#### AUTHORITY AND REFERENCE

Labor Code sections 5307(a), 133, 5309 and 5708, authorize the WCAB to adopt the proposed regulations. The proposed regulations implement, interpret and make specific various sections of the Labor Code.

#### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Labor Code sections 4903 et seq. make various provisions for the filing and determination of lien claims in workers' compensation proceedings. Labor Code sections 5502 and 5502.5 establish hearing procedures for workers' compensation proceedings.

Proposed new Rule 10562.5 specifies the circumstances under which a lien claim may be dismissed for lack of prosecution after the injured employee's underlying case has been resolved or the employee has chosen not to proceed with it. Proposed new Rule 10562.5 creates a procedure for dismissing a lien claim that has been inactive for a substantial period of time, after giving the lien claimant notice and an opportunity to be heard. Such a procedure will result in lien claimants pursuing their lien claims in a timely manner. This procedure also will create more certainty and predictability in workers' compensation claims management by allowing insurance carriers and self-insured employers to close their cases, liquidate their reserves, and more accurately predict future liabilities. Furthermore, the proposed procedure will allow an inactive lien claim to be dismissed through pleadings, without a hearing, if a lien claimant does not timely object to the dismissal, thereby increasing available calendar time.

The proposed amendments to Rule 10770 will change the filing requirements for lien claims to provide that only original (i.e., opening) liens shall be filed, and not amended liens, and that no supporting documentation for any liens shall be filed—except that supporting documentation and/or amended liens may be filed as proposed exhibits (see Cal. Code Regs., tit. 8, § 10233(g) & (h)) or as ordered by a workers' compensation judge or the WCAB. This reduction in the amount of paper filed in conjunction with lien claims will significantly alleviate the scanning backlogs that exist at some district offices, as well as have other beneficial effects. [NOTE: *Lien claimants still must serve original liens, amended liens, and all supporting documentation on the parties; therefore, the parties will remain fully apprised of the nature and amount of each*

*lien claim.*] In addition, the proposed amendments to Rule 10770 will close a loophole in the statute of limitations laws that creates an incentive for entities to purchase old accounts receivables, file liens, and use the WCAB's scarce judicial resources to collect payment on those ancient bills.

Proposed new Rule 10770.1 will, among other things, require that when a declaration of readiness to proceed (DOR) is filed on a lien dispute, the lien claimant or party filing the DOR must designate that they are requesting a "lien conference." The proposed Rule will also cause a "lien conference" to be treated like a mandatory settlement conference, e.g., a pretrial conference statement must be prepared and discovery will close. This will force parties and lien claimants to focus on the issues and be fully prepared to go to trial, thus reducing continuances and either facilitating settlement or at least limiting the issues to be tried.

#### DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The WCAB has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost to Any Local Agency or School District That Is Required To Be Reimbursed Under Part 7 (Commencing with Section 17500) of Division 4 of the Government Code: None.

Other Nondiscretionary Costs or Savings to Local Agencies: None.

Cost or Savings to Any State Agency or in Federal Funding to the State: There may be some savings to the Division of Workers' Compensation of the Department of Industrial Relations.

Significant Statewide, Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete With Businesses in Other States: None.

Effect on Small Business: Small businesses that file lien claims with the WCAB may experience slight reductions in costs due to the elimination of the filing of amended liens and the filing of documentation in support of liens. Otherwise, the proposed regulatory action involves changes in the procedures for the adjudication of lien claims that do not impose significant financial or economic burdens on the regulated small businesses.

Cost Impacts on Representative Private Persons or Businesses: None.

Other Impacts on Jobs and Businesses: None.

Effect on Housing Costs: None.

The adoption of these regulations is not expected to create or eliminate jobs or businesses in the State of

California or reduce or expand businesses currently doing business in the State of California.

### CONSIDERATION OF ALTERNATIVES

Under Government Code section 11351, the WCAB is *not* subject to the provisions of Government Code section 11346.5(a)(13). Nevertheless, the WCAB invites interested persons to present statements or arguments at the scheduled hearing or during the written comment period regarding reasonable alternatives that would be more effective in carrying out the purpose of this rulemaking, or would be as effective and less burdensome to the affected private persons, than the proposed action of this rulemaking.

### PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Under Government Code section 11351, the WCAB is *not* subject to the provisions of Government Code section 11346.45 relating to pre-publication public review and comment. Nevertheless, consistent with Government Code section 11346.45(a), the proposed regulations are not so complex or large in number that they cannot easily be reviewed during the comment period.

### CONTACT PERSONS

Nonsubstantive inquiries concerning this rulemaking action, such as requests to be added to the e-mail and/or mail distribution list(s) or requests for copies of rulemaking documents (e.g., the proposed regulations, the Initial Statement of Reasons), may be directed to: Annette Gabrielli, Regulations Coordinator, Workers' Compensation Appeals Board, P.O. Box 429459, San Francisco, CA 94142-9459, E-mail: [WCABRules@dir.ca.gov](mailto:WCABRules@dir.ca.gov), Phone: (415) 703-4580. Please direct requests for copies of the proposed regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Ms. Gabrielli at the foregoing address.

The backup contact person for non-substantive inquiries and the contact person for substantive inquiries is: Neil P. Sullivan, Assistant Secretary and Deputy Commissioner, Workers' Compensation Appeals Board, P.O. Box 429459, San Francisco, CA 94142-9459, E-mail: [WCABRules@dir.ca.gov](mailto:WCABRules@dir.ca.gov), Phone: (415) 703-4554.

**Note:** In the event that Deputy Commissioner Sullivan is unavailable, substantive inquiries should be directed to Rick Dietrich, Secretary and Deputy Commissioner at the same address, email address and telephone number.

### AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE, AND INTERNET ACCESS

Throughout the rulemaking process, the WCAB will have its entire rulemaking file available for inspection and copying at its office at 455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday (excluding holidays). In addition, the above-cited materials may be accessed on the internet at [www.dir.ca.gov/wcab/WCABPropRegsJul2011.htm](http://www.dir.ca.gov/wcab/WCABPropRegsJul2011.htm). As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, the proposed text of the regulations, and the Form 399.

### AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, the Initial Statement of Reasons, and the text of the proposed regulations, will automatically be sent to those interested persons on the mailing list of the WCAB, and to all persons who have requested notice of hearing as required by Labor Code Section 5307.4.

If adopted, the regulations with any final amendments will appear in the California Code of Regulations at Title 8, Chapter 4.5, Subchapter 2, commencing with Section 10300. The text of the final regulations also may be available through the website of the Office of Administrative Law at [www.ccr.oal.ca.gov](http://www.ccr.oal.ca.gov).

## TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

### NOTICE OF PROPOSED REGULATORY ACTION Triennial Recertification of Academy Instructors Regulation 1009

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

**Public Comments Due by September 19, 2011, at 5:00 p.m.**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-5271, or by letter to:

Commission on POST  
Attention: Rulemaking  
1601 Alhambra Boulevard  
Sacramento, CA 95816-7081

### Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code Section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code Section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

At present, instructors that teach in POST certified academies must attend the Academy Instructor Certification Course or be assessed for equivalency before they can teach in those academies. These instructors must recertify that initial training every three years. The recertification period is three years from the date of initial certification. These provisions are outlined in Regulation 1009.

This proposal would change the recertification from a “rolling period” based on the date of initial certification to a fixed period which would remain at a three year period. In 2008 the Commission approved a similar change to the training cycle for all peace officers and dispatchers from a rolling period based on their date of appointment to a fixed period. This change was made because agencies advised POST staff that tracking officer and dispatcher training cycles as outlined in Regulation 1005 was a time consuming burden. Academy directors advised POST staff that tracking the recertification of academy instructors was imposing a similar burden and requested that the recertification period be changed to a fixed period.

The proposed amendment will reduce the workload for tracking the recertification of academy instructors with no impact on the quality of instruction that occurs in those academies. The amendment sets the start date and will make the continuous tracking of recertification of academy instructors a manageable task.

### Adoption of Proposed Regulations

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language

before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

### Estimate of Economic Impact

Fiscal Impact on Public Agencies including Costs or Savings to State Agencies or Costs or Savings in Federal Funding to the State: None.

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code sections 17500-17630 require reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement which does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs.

### Assessment

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California.

### Consideration of Alternatives

To take this action, the Commission must determine that no reasonable alternative considered by the Com-



mission, or otherwise identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

#### Contact Persons

Please direct inquiries about this proposed regulatory action to Ed Pecinovsky, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, by email at [Ed.Pecinovsky@post.ca.gov](mailto:Ed.Pecinovsky@post.ca.gov), or by telephone at (916) 227-2820. Patti Kaida is the contact person for questions on the regulatory process. Ms. Kaida is available by email at [Patti.Kaida@post.ca.gov](mailto:Patti.Kaida@post.ca.gov), by telephone at (916) 227-4847, or by FAX at (916) 227-5271.

#### Text of Proposal

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/regulatoryactions.aspx>.

#### Availability and Location of the Rulemaking File and the Final Statement of Reasons

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

### TITLE 13. CALIFORNIA AIR RESOURCES BOARD

#### NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR MOBILE CARGO HANDLING EQUIPMENT AT PORTS AND INTERMODAL RAIL YARDS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards (section 2479, title 13, California Code of Regulations (CCR)).

DATE: September 22, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency

Air Resources Board  
Byron Sher Auditorium, Second Floor  
1001 I Street  
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 22, 2011, and may continue at 8:30 a.m., September 23, 2011. This item may not be considered until September 23, 2011. Please consult the agenda for the hearing, which will be available at least 10 days before September 22, 2011, to determine the day on which this item will be considered.

#### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendment of section 2479, title 13, California Code of Regulations, the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards (CHE Regulation or regulation). The following documents would be incorporated in the regulation by reference: (1) *Society of Automotive Engineers (SAE) Snap-Acceleration Smoke Test Procedures for Heavy-Duty Diesel Powered Vehicles as set forth in SAEJ1667 issued February 1996*; (2) *International Standard ISO 8178-4(E):1996, "Reciprocating Internal Combustion Engines — Exhaust Emission Measurement — Part 4: Test Cycles for Different Engine Applications"*; (3) *International Standard ISO 8178-2(E):1996, "Reciprocating Internal Combustion Engines — Exhaust Emission Measurement — Part 2: Measurement of Gaseous and Particulate Exhaust Emissions at Site, and (4) International Standard ISO 8178-1(E):1996, "Reciprocating Internal Combustion Engines — Exhaust Emission Measurement — Part 1: Test Bed Measurement of Gaseous and Particulate Exhaust Emission."*

#### Background:

In December 2005, the ARB approved for adoption the CHE Regulation as one of many steps to reduce emission from goods movement activities.<sup>1</sup> The regulation reduces emissions of diesel particulate matter (PM) and oxides of nitrogen (NO<sub>x</sub>). The regulation also fulfills an element of the Diesel Risk Reduction Plan, adopted by the Board in 2000, that identified available strategies for reducing diesel PM. Diesel PM emission reductions are needed to reduce the potential cancer risk and other adverse impacts from exposure to this toxic air contaminant (TAC) for the people who live in the vicinity of California's major ports and intermodal rail yards. The regulation reduces diesel PM and NO<sub>x</sub> that contribute to regional PM and assist California in its goal of achieving state and federal air quality standards.

<sup>1</sup> The regulation was formally adopted October 17, 2006 and became effective on December 31, 2006.



Reductions in NO<sub>x</sub>, a precursor in the formation of ozone, also helps reduce regional ozone levels.

The regulation, effective December 6, 2006, establishes best available control technology (BACT) for new and in-use mobile cargo handling equipment (CHE) that operate at California's ports and intermodal rail yards. The regulation requires yard trucks that operate at a port or intermodal rail yard in California to meet in-use performance standards through accelerated turnover of older yard trucks to ones equipped with cleaner, on-road engines. Non-yard truck equipment is also required to meet BACT. This equipment includes retrofits and/or replacement to cleaner on-road or off-road engines. Owners or operators are required to maintain records of their equipment, compliance method, and compliance dates, as well as periodically report to ARB their compliance plans and demonstrations of compliance.

The proposed amendments would provide owners/operators with additional flexibility for the purpose of reducing compliance costs, maintain the emissions reduction benefits of the regulation, initiate an opacity based monitoring program, and clarify several of the regulation's provisions. The proposed amendments would continue to protect the public's health while providing cargo handling equipment (CHE) owners/operators with additional flexibility to comply with the regulation in the most cost-effective manner. The proposed amendments are summarized below.

## DESCRIPTION OF THE PROPOSED REGULATORY ACTION

The proposed amendments were designed to provide additional compliance flexibility, maintain the anticipated emission reductions, and clarify several provisions in the regulation. The proposed amendments address several areas including: retrofit requirements, operational requirements, emission standards, compliance provisions, definitions, and other clarifying language.

### Retrofit Requirements

*Additional time for equipment with no VDECS available:* Staff is proposing to add two years to the current two years maximum annual compliance extensions for in-use non-yard truck equipment for which there are no VDECS available to provide owner/operators the flexibility to use the least costly compliance option.

*Add a safety provision for VDECS:* Staff is proposing to add VDECS safety as a reason for determining that there is "No VDECS Available" and granting an annual extension. Under the amendment, the owner/operator would have to demonstrate that there is no VDECS that can be safely and feasibly used for a particular type of

equipment. The extension would be reviewed annually and additional extensions would be contingent upon a re-evaluation of whether or not there continues to be no VDECS available for reasons of safety or feasibility.

*Allow more time for extension application:* The time frame to apply for the "No VDECS Available" extension would be changed from 6 months to 60 days prior to the compliance deadline in order to give operators more time to determine if a compliance extension is needed.

*Require equipment with a "No VDECS Available" extension to be brought into compliance within 6 months after a VDECS does become available:* Staff is proposing that the "No VDECS Available" extension be amended to require the installation of VDECS, or another compliance option, within six months of notification that a VDECS has become available for the equipment. This is consistent with the current requirements for new equipment that must be retrofitted.

*Allow extensions for experimental diesel PM emissions control strategies for gathering verification data:* Staff is proposing to expand the "No VDECS Available" extension for an experimental diesel emission control strategy to allow CHE owners/operators to gather information needed for verification.

### Operational Practices

*Low-use compliance extension:* Staff is proposing two one-year annual compliance extensions for equipment that operates 200 hours per year or less. The amendment would allow ARB to limit the number of extensions per fleet to two pieces of equipment or two percent of the fleet equipment.

*Non-yard truck equipment transfers:* Staff is proposing to allow non-yard truck equipment owned or leased by one party to be transferred to another location within California that is owned or leased by the same party. Transfers could not be used to comply, or delay compliance, with the regulation. The equipment would be required to apply BACT prior to being used in the new location. ARB would approve transfer requests, on a case-by-case basis, for non-yard truck equipment only.

*Warranty engine replacement:* Staff is proposing an amendment to allow, in cases of premature engine failure, owners/operators to replace an engine under the original equipment manufacturer's warranty with a like-engine even when newer engine standards are in place.

*Allow rental of non-compliant equipment for manufacturer delivery delays:* Staff is proposing, in cases where new compliant equipment has been purchased but there is a delay in delivery, to allow owners/operators, for period of up to six months or until new equipment can be delivered, to rent or lease equipment

that does not meet current emission standards, if rental equipment meeting current standards are not available and the owner/operator can demonstrate the need to use such equipment. The rental or leased equipment that could be used under the amendment can only be one Tier lower than required engine standards (i.e., if Tier 4 engine standards are in place, only Tier 3 engines could be rented).

*Initiate CHE opacity-based monitoring program:* Staff is proposing that an opacity-based monitoring program be incorporated into the CHE Regulation. This program would establish work practice requirements for annual opacity monitoring of all CHE to ensure proper operation and maintenance such that engines continue to perform as designed or certified. Retrofitted engines would be monitored annually to ensure that the engine continues to be in compliance with the VDECS executive order.

#### Emission Standards

*Treat Tier 4 Engines Certified to Alternate PM Emissions Standards as Tier 3 Engines:* Staff is proposing to require that any engine certified to Tier 4 Family Emission Limit (FEL) Alternate PM standards (Alt PM standards) be retrofitted with highest level VDECS within one year of acquisition. The U.S. EPA allows engine manufacturers to produce a specified percentage of Tier 4 engines built to alternative, less stringent, PM and NO<sub>x</sub> emissions limits. These engines are referred to as FEL or Averaging, Banking, and Trading (AB&T) engines. The Tier 4 Alt PM standards are essentially Tier 3 standards. Their use would effectively undermine the emission reductions that were anticipated to be achieved by the CHE Regulation with the introduction of Tier 4 engines.

*Allow demonstration of emissions equivalency for alternative technology:* Staff is proposing an amendment to allow owners/operators to use power systems that they can demonstrate comply with the applicable new or in-use emissions limits. Hybrid power systems are an example of a type of systems that could benefit from this amendment.

#### Compliance Requirements

*Allow compliance schedule modification to bring older engines into compliance first:* Staff is proposing to allow CHE owners/operators to modify their non-yard truck compliance schedules to permit them to bring older model-year engines into compliance prior to newer model-year engines that are otherwise required to come into compliance before the older model-year engines. The number of engines required to comply each year would remain the same.

*Exempt equipment at rural low-throughput ports:* Staff is proposing that any port that has an average annual throughput of less than one million tons and is

located more than 75 miles from an urban area would be exempt from the requirements of the CHE Regulation. The Port of Humboldt Bay is the only port that currently meets this set of criteria. If adopted, CHE with off-road engines at an exempted port would be subject to ARB's off-road in-use equipment regulation. CHE with on-road engines would be subject to the on-road truck and bus regulation. The Port of Humboldt Bay is in an ozone attainment area and does not contribute to any downwind violations.

#### Amendments to Clarify Language and Intent

*Definitions:* Staff is proposing to clarify the intent of the CHE Regulation by modifying several existing definitions including: port; owner or operator; intermodal rail yard; newly purchased, leased or rented cargo handling equipment; rubber-tired gantry crane; retirement or retire; and compression ignition engines.

In addition, staff is proposing to add definitions for the following terms to support both modified definitions and other amendments: alternate PM standard; two-year average annual cargo throughput; water-borne commerce; construction activities; cargo; Class I Railroad; low-throughput port; opacity; otto cycle engine; safe; urban area; warranty period; and Family Emissions Limit.

*Clarifying Language:* Staff is also proposing to clarify that equipment brought onto a port or intermodal rail yard solely for construction or unexpected repairs are exempt from the regulation and other clarifying changes.

### COMPARABLE FEDERAL REGULATIONS

Presently, no federal law has been promulgated addressing emission reductions from in-use CHE engines. Unless specifically preempted under Section 209(e)(1), California is the only state allowed to adopt emission requirements for off-road engines that are different from those of the federal government. Section 209(e)(2)(A) of the federal Clean Air Act (CAA) authorizes California to adopt and enforce emission standards and other requirements for off-road engines and equipment not subject to federal preemption, so long as the California standards "will be, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards." However, California must apply for, and receive authorization from, the administrator of the United States Environmental Protection Agency (U.S. EPA) before ARB may enforce its regulations.

In January 2007, the ARB submitted a waiver and authorization request to the U.S. EPA, pursuant to section 209(e)(2) of the federal Clean Air Act. On January 25, 2011, the U.S. EPA initiated a public comment period on ARB's authorization request. This comment period

ended March 17, 2011. As of this publication, the U.S. EPA has not yet made a decision on the request.

The proposed amendments to the regulation continue to rely on the implementation of U.S. EPA's Tier 4 non-road emission standards for new diesel engines, with which the ARB has harmonized, since engine replacement continues to be one of many compliance pathways. While under CAA Section 213, U.S. EPA may only adopt new emission standards for nonroad engines; California is the only government agency in the nation that may adopt in-use emission standards for non-road engines.

#### AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed amendments to the regulation, which includes a summary of the potential environmental and economic impacts, if any, of the proposed amendments. The ISOR is entitled, "*Staff Report: Initial Statement of Reasons for the Proposed Amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards.*"

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow comparison with existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990, on August 3, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Cherie Rainforth, Manager of the Control Strategies Section, at (916) 327-7213 or Kirk Rosenkranz, Air Pollution Specialist, at (916) 327-7843.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are

available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2011/cargo11/cargo11.htm>.

#### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined, with the exception noted below, that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies. The proposed amendments would impose a mandate on some local agencies established for the oversight of ports that also own CHE, but any costs incurred are not reimbursable under Government Code section 17500 et seq.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB staff estimated that while the amendments would result in both costs and savings to businesses, the overall total statewide impact on businesses would be a net savings of \$1 to \$2 million in 2011 dollars over the time period of 2011 to 2020. The annual net savings range from \$100,000 to \$200,000 statewide.

For those businesses that operate at ports or intermodal rail yards, and have diesel powered cargo handling equipment, the costs due to the amendments will vary depending on the age, number and type of equipment operated. While the costs due to the amendments implementing an opacity-based monitoring program are fairly predictable for a typical business, the various savings provided by the amendments, such as those due to the additional two years of extensions for equipment with "No VDECS Available", or due to the flexibility to move equipment when business needs arise, are less predictable. Additionally, the only other cost due to the amendments, the cost to retrofit Tier 4 engines certified to the FEL Alt PM standards, may be an avoidable cost as owners/operators may have the choice to purchase Tier 4 engines meeting the non-FEL standards.

It would be expected that the costs and savings associated with the different amendments would impact the different sectors of the industry in a relatively uni-



form manner. The one exception to this would be the amendment to exempt small rural ports. The approximately \$1 million savings associated with this amendment would impact only those businesses operating at the Port of Humboldt Bay.

The Executive Officer has determined that, because there are net savings from the proposed regulatory actions, no significant impact on mobile cargo handling equipment owner/operators, businesses that import or export goods, California port competitiveness, or on individuals purchasing such goods is expected, even if all these costs were passed on to the consumer.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. A number of businesses are integrally linked to the goods that travel through California ports and intermodal rail yards. However, we do not believe that the added costs of some of the proposed regulatory actions would result in vessel operators or shippers choosing alternative ports and intermodal rail yards outside California.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not significantly affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A short delay in capital investment could be expected due to the amendments that provide for a two-year delay in compliance for equipment with no VDECS available and low-use equipment. This delay is expected to benefit equipment owners/operators and has no adverse impact on VDECS manufactures because these manufacturers are unable to supply a marketable VDECS at this time. No other impacts on business would be expected.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect, but not adversely impact, small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the proposed regulatory action will have no significant impact with regard to reporting requirements since only minor changes are proposed to these provisions of the regulations.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board

would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

## SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The comment period for this regulatory action will begin on August 8, 2011. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after August 8, 2011 and received no later than 12:00 noon on September 21, 2011, and must be addressed to the following:

Postal mail:

Clerk of the Board, Air Resources  
Board  
1001 I Street, Sacramento,  
California 95814

Electronic submittal: [http://www.arb.ca.gov/  
lispub/comm/bclist.php](http://www.arb.ca.gov/lispub/comm/bclist.php)

## \*New Feature\*

**You can now sign up online in advance to speak at the Board meeting** when you submit an electronic board item comment. For more information go to: <http://www.arb.ca.gov/board/online-signup.htm>.

Please note that under the California Public Records Act (Gov. Code, section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.



## STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 39002, 39600, 39515, 39516, 39600, 39601, 39602, 39650, 39655, 39656, 39658, 39659, 39665, 39666, 39667, 39674, 39675, 40000, 41511, 43000.5, 43013, and 43018. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39655, 39656, 39657, 39658, 39659, 39665, 39666, 39667, 39674, 39675, 40000, 41511, 43000.5, 43013, and 43018.

## HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such an event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990. The document will also be posted on ARB's website listed above.

## SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternative format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech-

to-Speech users may dial 7-1-1 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveido para alguna de las siguientes:

- Un interprete que este disponible en la audiencia.
- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresion grande) u otro idioma.
- Una acomodacion razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo mas pronto possible, pero no menos de 10 dias de trabajo antes del dia programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 7-1-1 para el Servicio de Re-transmision de Mensajes de California.

## TITLE 14. DEPARTMENT OF PARKS AND RECREATION

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** the Department of Parks and Recreation (Department) proposes to amend the regulations described below after considering all comments, objections and recommendations regarding the proposed action.

### PROPOSED REGULATORY ACTION

The Department proposes to amend the regulations and documents incorporated by reference in the California Code of Regulations (CCR), Title 14, Division 3, Chapter 15, Articles 1 through 5, Sections 4970.00 through 4970.26 pertaining to the Off-Highway Motor Vehicle Recreation (OHMVR) Grants and Cooperative Agreements Program (Program).

### PUBLIC HEARING

The Department has scheduled one public hearing on the proposed rulemaking. The hearing will be held in Sacramento on September 20, 2011. The meeting will commence at 3:00 p.m. and will end no earlier than 6:00 p.m.

The location of the hearing is:

Off-Highway Motor Vehicle Recreation Division  
Headquarters  
1725 23rd Street, Suite 200  
Sacramento, CA 95816  
(916) 324-4442

At the hearing, any interested person, or his or her authorized representative, may present oral or written statements, arguments, or contentions relevant to the proposed action described in the Informative Digest. The Department may impose reasonable limits on oral presentations. The Department requests, but does not require, persons making oral comments at the hearings also submit a written copy of their testimony at the conclusion of their remarks. Additionally, pursuant to Government Code Section 11125.1, any information presented to the Department during the open hearings in connection with the matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Department and shall be made available upon request.

Written comments other than those presented at the public hearing may be submitted to the Department as described below.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed rulemaking to the Department. The written comment period ends at 5:00 p.m., on September 20, 2011. The Department will consider only written comments received at the Department's office by that time (in addition to those comments received at the public hearing). Written comments may be mailed to the following address:

Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
Attn: Sixto Fernandez, Grants Manager  
Grants and Cooperative Agreements  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, California 95816-7100

Written comments of not more than 10 pages will be accepted by the Department via facsimile at (916) 324-1610. A fax transmission must be completed by the deadline given above.

Written comments delivered by email will also be accepted by the Department. Written comments of not more than 10 pages may be submitted to the Department at the following address: OHVInfo@parks.ca.gov. Electronic mail must be completed by the deadline given above.

#### AUTHORITY AND REFERENCE

*Authority Citation:* The proposed amendments are authorized by Public Resources Code (PRC) Sections 5001.5 and 5003.

*Reference Citation:* The particular code sections implemented, interpreted, or made specific by these proposed amendments are PRC Sections 5090.32 and 5090.50.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### *Background and History*

Public Resources Code Section 5090.01 et seq., also known as the Off-Highway Motor Vehicle Recreation Act of 2003 (Act), as amended, governs off-highway motor vehicle (OHV) grants and cooperative agreements with cities, counties, districts, federal agencies, federally recognized Native American tribes, nonprofit organizations, educational institutions, and State agencies. The Grants and Cooperative Agreements Program is administered by the OHMVR Division within the Department. The Program allows the State to assist eligible agencies and organizations to develop, maintain, expand and manage high-quality OHV recreation areas, roads, trails, and other facilities, while responsibly maintaining the wildlife, soils, and habitat in a manner that will sustain long-term OHV recreation. Assistance is provided in the form of project-specific grant funding.

The Department adopted permanent regulations for the Grants and Cooperative Agreements Program, which appear in the California Code of Regulations, Title 14, Division 3, Chapter 15, Sections 4970.00-4970.26.

With the conclusion of the 2010/11 grants cycle, the OHMVR Division identified areas in the regulations needing additional clarity or revision. The Department proposes to amend portions of CCR Title 14, Division 3, Chapter 15, Sections 4970.00-4970.26 and documents incorporated by reference. These amendments will clarify aspects of the Program, improve oversight, and revise project evaluation criteria to obtain more effective and relevant information for scoring the projects.

##### *Effect of Proposed Rulemaking*

The Department is proposing to amend the OHMVR Grants and Cooperative Agreements Program Regulations, CCR Title 14, Division 3, Chapter 15, Articles 1 through 4, Sections 4970.00-4970.26 and documents incorporated by reference as follows:

*Section 4970.00* is amended to update the applicable date of the regulations.

*Section 4970.01* is amended to define a new term.

*Section 4970.03* is amended to correct grammar.

*Section 4970.04* is amended to identify the application deadline.

*Section 4970.05* is amended to ensure consistency between the regulations and a document incorporated by reference regarding public notification efforts. The Section is also amended to specify acceptable documentation required of educational institutions and nonprofit organizations.

*Section 4970.06.1* is amended to ensure consistency in the Section, remove unnecessary capitalization, and to explain what types of environmental compliance documentation may be submitted by applicants subject to the National Environmental Policy Act (NEPA) and when it must be submitted.

*Section 4970.07* is amended to clarify the purpose of comments submitted by OHMVR Division to applicants.

*Section 4970.07.2* is amended to clarify the ability of the OHMVR Division to eliminate or reduce costs or activities in applications.

*Section 4970.08* is amended to expand the list of media items considered as eligible project costs and places restrictions if these items intend to display the OHV trust fund logo.

*Section 4970.10.1* is amended to ensure consistency throughout the regulations.

*Section 4970.10.2* is amended to ensure consistency throughout the regulations.

*Section 4970.10.3* is amended to ensure consistency throughout the regulations.

*Section 4970.10.4* is amended to ensure consistency throughout the regulations.

*Section 4970.11* is amended to ensure consistency throughout the regulations and to identify additional information needed for restoration project applications.

*Section 4970.13* is amended to ensure consistency throughout the regulations.

*Section 4970.19* is amended to ensure the OHVMR Division does not execute project agreements for applicants that owe the State money from previous projects or applicants that have not closed out existing projects in a timely manner.

*Section 4970.19.1* is amended to specify the timeframe in which a project performance period must begin.

*Section 4970.23.1* is amended to require additional information from grantees when requesting advance payments.

*Section 4970.23.2* is amended to require additional information from grantees when requesting reimbursement.

*Section 4970.24* is amended to require additional information from grantees closing out a project.

*Section 4970.24.2* is added to explain a project performance review conducted by OHMVR Division staff.

*Subarticle 1* is amended to reduce confusion about audits and remove unnecessary language.

*Section 4970.25.2* is amended to reduce confusion about audits, remove unnecessary language, and describe interaction between the OHMVR Division and the Audits Office and to maintain consistent numbering in the regulations.

*Section 4970.25.3* is amended to maintain consistent numbering in the regulations.

*Documents Incorporated by Reference*

*Public Review Process* is amended to be consistent with Section 4970.05(e)(2).

*Soil Conservation Plan (12/11)* is added to identify projects that must supply a Soil Conservation Plan.

*Evaluation Criteria — General Criteria (Rev. 1/11)* is amended to revise scoring criteria.

*Evaluation Criteria — Education and Safety Criteria (Rev. 1/11)* is amended to revise specific scoring criteria.

*Evaluation Criteria — Restoration Project Criteria (Rev. 1/11)* is amended to revise specific scoring criteria.

## COMPARABLE FEDERAL REGULATION OR STATUTE

The proposed amendments do not duplicate or conflict with federal regulations or statutes.

## LOCAL MANDATE DETERMINATION

The Department has determined these proposed regulation amendments do not impose a mandate on local agencies or school districts. Participation in the OHMVR Grants and Cooperative Agreements Program is voluntary.

## DISCLOSURES/ESTIMATE OF ECONOMIC AND FISCAL IMPACT

*Fiscal Impact on Local Agencies or School Districts:* These regulations do not impose any cost on a local agency or school district requiring reimbursement un-

der Part 7 (commencing with Section 17500) of Division 4, Government Code, nor do they impose any non-discretionary cost or savings on local agencies.

*Fiscal Impact on State Government:* These regulations do not impose any cost or savings to the State or any cost or savings in federal funding to the State.

*Economic Impact on Business:* The Department has made an initial determination these regulations do not have a significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

*Cost Impacts on Representative Private Persons or Businesses:* The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

*Assessment of Effect on Jobs and Businesses:* Adoption of these regulations will not: 1) create or eliminate jobs within California, 2) create new businesses or eliminate existing businesses within California, or 3) affect the expansion of businesses currently doing business within California.

*Impact on Housing:* These regulations would not have a significant effect on housing costs.

*Determination Regarding Effect on Small Businesses:* The Department has determined there are no cost impacts on small businesses because this is a grant program for federal agencies, federally recognized Native American tribes, cities, counties, districts, State agencies, nonprofit organizations, and educational institutions.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department has determined no reasonable alternative it considered or has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## CONTACT PERSON

Inquiries concerning the proposed action may be directed to Sixto Fernandez, Grants Manager, at (916) 324-1572 or email at [sfernandez@parks.ca.gov](mailto:sfernandez@parks.ca.gov).

The back-up contact person regarding the proposed action is Kelly Long, Grants Administrator, at (916) 324-3741 or e-mail at [kclong@parks.ca.gov](mailto:kclong@parks.ca.gov).

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an Initial Statement of Reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. Copies may be obtained by contacting Sixto Fernandez at the e-mail address listed previously. The rulemaking file, which contains all information on which the proposal is based, is located at the OHMVR Division, 1725 23rd Street, Suite 200, Sacramento, California, 95816-7100, and may be obtained upon request. Additionally, the Initial Statement of Reasons and the text of the proposed regulations and documents incorporated by reference may be obtained from the Department's website located at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov) at the Grants link.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After any public hearings and consideration of all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes substantive modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, a copy of the Final Statement of Reasons may be obtained by contacting Sixto Fernandez at the aforementioned address.

## AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the regulations will be available through the Division website at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov), under the Grants link.



## TITLE 17. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF AMENDMENTS TO VAPOR RECOVERY CERTIFICATION AND TEST PROCEDURES FOR UNDERGROUND AND ABOVEGROUND STORAGE TANKS INCLUDING GASOLINE DISPENSING FACILITY HOSE REGULATION

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to regulations for vapor recovery certification and test procedures for underground and aboveground storage tanks used at gasoline dispensing facilities (service stations and similar facilities); and adoption of a gasoline dispensing facility dispensing hose regulation.

DATE: September 22, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection  
Agency  
Air Resources Board  
Byron Sher Auditorium, Second Floor  
1001 I Street  
Sacramento, California 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., September 22, 2011, and may continue at 8:30 a.m., September 23, 2011. Please consult the agenda for the meeting, which will be available at least 10 days before September 22, 2011, to determine the time when this item will be considered.

### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendments to sections 94010, 94011, 94016, 94150, and 94168, title 17, California Code of Regulations (CCR), which incorporate by reference vapor recovery definitions, certification procedures, and test procedures. The following documents are referenced in the regulations: *Definitions for Vapor Recovery Procedures*, D-200, last amended May 2, 2008; *Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities*, CP-201, last amended May 25, 2006; *Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks*, CP-206, adopted May 2, 2008; *Volumetric Efficiency for Phase I Vapor Recovery Systems*, TP-201.1, last amended October 8, 2003; *Efficiency and Emission*

*Factor for Phase II Systems*, TP-201.2, last amended May 2, 2008; *Determination of the Vehicle Matrix for Phase II Systems*, TP-201.2A, last amended February 1, 2001; *Test Procedure for In-Station Diagnostic Systems*, TP-201.2I, last amended May 25, 2006; *Pressure Drop Bench Testing of Vapor Recovery Components*, TP-201.2J, adopted October 8, 2003; *Determination of 2 Inch WC Static Pressure performance of Vapor Recovery Systems of Dispensing Facilities*, TP-201.3, last amended March 17, 1999; and *Determination of Static Pressure Performance of Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.3, adopted May 2, 2008.

**Background:** ARB authorizes the sale, installation, and use of vapor recovery equipment at service stations, also referred to as gasoline dispensing facilities (GDFs), through a certification program. Vapor recovery is a necessary element in reducing smog-forming hydrocarbon emissions (gasoline vapor) and mitigating exposure to benzene, a constituent of gasoline vapor that ARB has identified as a toxic air contaminant. These reductions and controls play an important role in protecting public health and achieving clean air.

In March 2000, ARB approved Enhanced Vapor Recovery (EVR) regulations for vapor recovery equipment used for underground storage tanks (UST). The EVR regulations established new performance standards and specifications for vapor recovery systems to further reduce emissions during storage and transfer of gasoline at GDFs. EVR regulations were subsequently amended by the Board in 2001, 2002, 2004, and 2006 in part to update the regulations in response to new vapor recovery control technology, and to improve the applicability and accuracy of test procedures used for certifying vapor recovery equipment and for compliance determination on in-use equipment.

In June 2007, ARB approved EVR regulations for aboveground storage tanks (AST). These regulations established new performance standards and specifications for vapor recovery systems for AST, which further reduce emissions during the storage and transfer of gasoline. AST EVR regulations generally mirrored the EVR regulations for USTs with a few exceptions.

#### **Staff's Proposal:**

**New Definition of Effective Date for Starting "The Four Year Clock"**— ARB staff worked with the California Independent Oil Marketers Association (CIOMA) and other industry representatives to develop revised language clarifying a statutory provision providing owners of existing GDFs four years to replace their current equipment when new or amended standards and specifications become effective. In the past, there was some confusion when no system was certified to meet a new performance standard by an actual calendar date specified in the regulations — the effective

date. At the time of adoption of the regulations, that date represented the ARB staff's best available estimate for certification of the first system. In actuality, unexpected delays in the development and certification of compliant systems meant that new and modified GDFs could not meet the regulatory requirements by the effective date specified in the regulations. This led to ambiguity and forced ARB to repeatedly revise and delay the effective date, first through administrative actions by the Executive Officer and then by Board approval of the Executive Officer's action through a formal rule-making process. Therefore, to address this situation, staff is proposing changes to CP-201 and CP-206 to clarify that the "*effective date*" is now the date when the first system meeting the applicable new performance standards is certified by ARB, and this new effective date starts the "*four-year clock*" provision for affected GDFs. Additionally, staff is proposing to add a provision that allows the public to petition the Executive Officer to exempt certain subgroups of facilities where the first certified system is incompatible.

**Amendments, Revisions, and Other General Editorial Improvements** — ARB staff is also proposing a number of amendments to D-200 (*Vapor Recovery Definitions*), CP-201 (*Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities*), CP-206 (*Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks*), and the following test procedures to improve their clarity and readability.

1. *Volumetric Efficiency for Phase I Vapor Recovery Systems*, TP-201.1,
2. *Efficiency and Emission Factor for Phase II Systems*, TP-201.2,
3. *Determination of the Vehicle Matrix for Phase II Systems*, TP-201.2A,
4. *Test Procedure for In-Station Diagnostic Systems*, TP-201.2I,
5. *Pressure Drop Bench Testing of Vapor Recovery Components*, TP-201.2J,
6. *Determination of 2 Inch WC Static Pressure performance of Vapor Recovery Systems of Dispensing Facilities*, TP-201.3, and
7. *Determination of Static Pressure Performance of Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.3.

**New Evaporative Emission Standard for Fuel Hoses** — Lastly, ARB staff is proposing a new performance standard for GDF fuel dispensing hoses that would limit the permeation rate of gasoline to no more than 10 grams per square meter per day as determined per Underwriters Laboratory standards (UL 330, 7<sup>th</sup>

Ed. — Standard for Hose and Hose Assemblies for Dispensing Flammable Liquids). The proposed standard applies to fuel hoses which carry liquid gasoline against the outermost hose wall. This proposal is expected to reduce gasoline permeation by 96 percent using technology that has been demonstrated in other applications by several hose manufacturers. The proposed standard applies to about 70 percent of the GDFs in operation in California and will generate net savings to California consumers from gasoline fuel saved.

The "effective date" provision for this new hose emission standard and the "four-year clock" for affected GDFs apply as described above. That is, the "effective date" for the affected GDF is the date when the first hose meeting the new performance standard is certified by ARB. All affected GDFs will have four years to comply from the "effective date." Exceptions to the "four-year clock" provision include new installations that are permitted after the "effective date" and existing facilities undergoing a major modification. In both cases, compliance with the new hose requirements is expected upon completion of installation or facility modifications. In addition, any affected facility would be required to comply if a hose or hoses are replaced after the "effective date."

## COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that certify gasoline vapor recovery systems for service stations; however, changes to ARB's vapor recovery regulations have a national impact. Certification by ARB is required in most other states that require vapor recovery at service stations. California certification is also sought after for international applications.

## AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal. The report is entitled: "Hearing Notice and Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider Adoption of Amendments to Vapor Recovery Certification and Test Procedures for Underground and Aboveground Storage Tanks Used at Gasoline Dispensing Facilities Including Gasoline Dispensing Facility Hose Regulation."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Re-

sources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on August 3, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Scott Bacon, at (916) 322-8949, Mr. Jason McPhee, at (916) 322-8116, or Mr. George Lew, Monitoring and Laboratory Division, at (916) 327-0900.

Further, the agency representative and designated back-up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2011/evr11/evr11.htm>.

#### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the cost or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur, in reasonable compliance with the proposed action. Although not quantifiable, cost savings may be realized by GDF owners and vapor recovery equipment manufacturers from the following:

- 1) Proposed changes to the certification procedures for vapor recovery systems of underground and aboveground storage tank facilities, ensuring a full four years for existing GDFs to replace their existing equipment once a system is certified, which is consistent with the intent of the four-year clock for equipment replacement.
- 2) Proposed changes to the certification and test procedures will improve clarity and readability.

In addition, adoption of GDF hose regulation results in a small, quantifiable net cost saving to California consumers from fuel waste avoided by the hose regulation. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

Pursuant to Government Code section 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would impose a mandate on state agencies, local agencies, and school districts that operate GDF's subject to the proposed fuel hose permeation requirements. However, the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to State or local agencies.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states, or on representative private persons. The Executive Officer has also determined, pursuant to CCR, title 1, section 4, that the proposed regulatory action affects small businesses.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action does not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the state of California.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements in the regulations and incorporated documents that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

#### SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting and com-



ments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on **August 8, 2011**. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after **August 8, 2011**, and received **no later than 12:00 noon on September 21, 2011**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board  
1001 I Street, Sacramento,  
California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

### \*New Feature\*

**You can now sign up online in advance to speak at the Board meeting** when you submit an electronic board item comment. For more information go to:

<http://www.arb.ca.gov/board/online-signup.htm>.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

ARB requests that written and email statements on this item be filed at least ten days prior to the hearing so that ARB staff and Board members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to ARB in Health and Safety Code, sections 25290.1.2, 39600, 39601, 39607, and 41954. This action is proposed to implement, interpret, or make specific Health and Safety Code, sections 25290.1.2, 39515, 41952, 41954, 41956.1, 41959, 41960, and 41960.2.

### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

### SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than ten business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service. Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alternativo (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.



**GENERAL PUBLIC INTEREST**

**TITLE 2. DEPARTMENT OF FAIR  
EMPLOYMENT AND HOUSING**

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or CEIR has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.  
DBA ASI Telesystems, Inc.  
21150 Califa Street  
Woodland Hills, CA 91367

Bay Recycling  
800 77th Avenue  
Oakland, CA 94621

C & C Disposal Service  
P.O. Box 234  
Rocklin, CA 95677

Choi Engineering Corp.  
286 Greenhouse  
Marketplace, Suite 329  
San Leandro, CA 94579

Fries Landscaping  
25421 Clough  
Escalon, CA 95320

Marinda Moving, Inc.  
8010 Betty Lou Drive  
Sacramento, CA 95828

MI-LOR Corporation  
P.O. Box 60  
Leominster, MA 01453

Peoples Ridesharing  
323 Fremont Street  
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital  
446 26th Street  
San Diego, CA

Southern CA Chemicals  
8851 Dice Road  
Santa Fe Springs, CA 90670

Tanemura and Antle Co.  
1400 Schilling Place  
Salinas, CA 93912

Turtle Building Maintenance Co.  
8132 Darien Circle  
Sacramento, CA 95828

Univ Research Foundation  
8422 La Jolla Shore Dr.  
La Jolla, CA 92037

Vandergoot Equipment Co.  
P.O. Box 925  
Middletown, CA 95461

**DEPARTMENT OF HEALTH CARE  
SERVICES**

**NOTICE OF GENERAL PUBLIC INTEREST**

THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (DHCS) PROPOSES TO LIMIT PHYSICIAN OFFICE AND CLINIC VISITS TO SEVEN FOR PHYSICIAN SERVICES COVERED UNDER THE MEDI-CAL PROGRAM, THAT MAY PROMPT ADJUSTMENTS IN THE PROSPECTIVE PAYMENT SYSTEM (PPS) REIMBURSEMENT RATES FOR FEDERALLY QUALIFIED HEALTH CENTERS (FQHC) AND RURAL HEALTH CLINICS (RHC)

This notice provides information of public interest with respect to the newly enacted mandates in the Welfare and Institutions (W&I) Code Section 14131.07. Physician office and clinic visits limited to seven for physician services under the Medi-Cal program may prompt adjustments in the PPS reimbursement rates for FQHCs and RHCs. DHCS will submit to the Centers for Medicare and Medicaid Services (CMS) the necessary Medicaid State Plan amendments to implement W&I Code 14131.07. The State proposes to implement W&I Code Section 14131.07 on November 1, 2011 pending federal approval from CMS by September 2, 2011. Per statute, DHCS shall implement W&I Code Section 14131.07 on the first day of the first calendar month fol-

lowing 60 days after the date the Department secures all necessary federal approvals.

**Physician Office and Clinic Visits Limited to Seven for Physician Services Covered under the Medi-Cal Program May Prompt Adjustments in the PPS Reimbursement Rates for FQHCs and RHCs**

The proposed amendments in California's Medicaid State Plan to limit physician office and clinic visits to seven for physician services covered under the Medi-Cal program will decrease the scope-of-service provided at FQHCs and RHCs. According to California's Medicaid State Plan, FQHCs and RHCs must submit a scope-of-service change request when the FQHC or RHC experiences a change in the scope of services provided by the FQHC or RHC that would result in an average per visit rate decrease in excess of 2.5 percent. The scope-of-service change may result in an adjustment of the FQHC's and RHC's PPS reimbursement rate per visit.

**Public Review and Comment**

The California statutes discussed above are available for public review at local county welfare offices throughout the State. Written comments (or requests for copies of the statutes and/or copies of the written comments) may be submitted to: Janice Spitzer, Chief, Benefits Analysis Section; Medi-Cal Benefits, Waiver Analysis and Rates Division; Department of Health Care Services; MS 4600; P.O. Box 997417; Sacramento, CA 95899-7417.

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2011-0609-02  
BOARD OF OCCUPATIONAL THERAPY  
Administrative Citations; Record Retention

The amendments to section 4141 of the California Code of Regulations establish the statutorily allowed ceiling for imposition of fines by the board pursuant to Business & Professions Code section 125.9. The adoption of section 4145 is to provide a timeline for the purging and retention of records regarding citations. (Most will be purged after five years. Those relating to fraud or unlicensed practice will not ever be purged.)

Title 16  
California Code of Regulations  
ADOPT: 4145 AMEND: 4141  
Filed 07/20/2011  
Effective 08/19/2011  
Agency Contact: Heather Martin (916) 263-2294

File# 2011-0719-02  
CALIFORNIA DEBT LIMIT ALLOCATION  
COMMITTEE  
Spelling Error

The California Debt Limit Allocation Committee submitted this action as a change without regulatory effect, pursuant to title 1, California Code of Regulations, to change the word "marking" to "marketing" in title 4, California Code of Regulations, section 5064(a)(3).

Title 4  
California Code of Regulations  
AMEND: 5064  
Filed 07/27/2011  
Agency Contact:  
Misti Armstrong (916) 653-3461

File# 2011-0701-01  
CALIFORNIA HORSE RACING BOARD  
Suspension of Authorized Medication

The California Horse Racing Board adopted section 1844.1 to suspend the use of authorized medications as allowed in Title 4, California Code of Regulations, section 1844. This regulation allows the Board to temporarily suspend the authorized administration to a horse entered to race of any drug, substance or medication. This suspension may only occur after a public meeting noticed in accordance with Government Code section 11125(a). The suspension may be for a race, breed, or race meeting, provided all horses in the same race compete under the same conditions. The suspension shall not exceed 12 months and written notice must be provided of the suspension.

Title 4  
California Code of Regulations  
ADOPT: 1844.1  
Filed 07/21/2011  
Effective 07/21/2011  
Agency Contact: Harold Coburn (916) 263-6397

File# 2011-0610-03  
DENTAL BOARD OF CALIFORNIA  
Minimum Standards for Infection Control

In this regulatory action, the Dental Board of California (Board) amends and updates its regulation entitled "Minimum Standards for Infection Control." This regulation implements Business and Professions Code section 1680(ad) which provides for infection control guidelines of the Board and for the periodic review of those guidelines.

Title 16  
California Code of Regulations  
AMEND: 1005  
Filed 07/21/2011  
Effective 08/20/2011  
Agency Contact: Sarah Wallace (916) 263-2187

File# 2011-0629-01  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
Conflict-of-Interest Code

The Department of Alcoholic Beverage Control is amending its conflict-of-interest code found at title 4, section 150, California Code of Regulations. The changes were approved for filing by the Fair Political Practices Commission on June 21, 2011.

Title 4  
California Code of Regulations  
AMEND: 150  
Filed 07/20/2011  
Effective 08/19/2011  
Agency Contact: Susie Smith (916) 928-6821

File# 2011-0608-02  
DEPARTMENT OF FOOD AND AGRICULTURE  
Amending Weights and Measures Administrative Civil Penalty Guidelines

The Department of Food and Agriculture (DFA) proposed to amend sections 4800, 4801, and 4802 of title 4 of the California Code of Regulations to add new violations and remove others from the administrative civil penalty guidelines and make other changes to reflect changes in the Business and Professions Code. The original submission was disapproved by the Office of Administrative Law (OAL) on March 4, 2011 and was resubmitted by DFA to OAL on June 8, 2011.

Title 4  
California Code of Regulations  
AMEND: 4800, 4801, 4802  
Filed 07/20/2011  
Effective 08/19/2011  
Agency Contact: David Lazier (916) 229-3044

File# 2011-0712-02  
DEPARTMENT OF HEALTH CARE SERVICES  
Medi-Cal Eligibility for IHSS Recipients

The Department of Health Care Services proposed this rulemaking action to amend four sections and to repeal one section of title 22 of the California Code of Regulations so that DHCS is in compliance with federal law under 42 CFR Section 431.10 in the administration of California's In-Home Supportive Services assistance program.

Title 22  
California Code of Regulations  
AMEND: 50035.5, 50145, 50179.5, 50183, 53845  
REPEAL: 50245  
Filed 07/21/2011  
Effective 08/20/2011  
Agency Contact: Lori Manieri (916) 650-6825

File# 2011-0714-01  
DEPARTMENT OF INSURANCE  
Loss Ratio Regulation for Individual Health Insurance Policies

The Department of Insurance submitted this action to re-adopt emergency rulemaking no. 2011-0112-01E, which amended section 2222.12 of title 10 of the California Code of Regulations. This amendment was prompted by the enactment of the federal Affordable Care Act, a series of health market reforms, and the Interim Final Rule, 45 Code of Federal Regulations Part 158, which describes the factors, scope, and method used in the calculation of loss ratios. The federal rules provide, among other things, that beginning January 1, 2011, health insurers offering coverage in the individual market must achieve at least an 80% loss ratio. Those insurers that do not meet this standard will be required to provide a refund the following calendar year.

As a result of this amendment, insurers in California will have to demonstrate both (1) compliance with the existing 70% lifetime anticipated loss ratio standard prescribed by section 2222.12, so that consumers are assured of receiving reasonable benefit value for their premium dollars on a policy-form basis, as well as (2) compliance with the 80% federal standard on a market-segment basis at the time of DOI's rate review, so that consumers can have the benefit of the federal medical loss ratio from the outset of the rate, rather than having to wait from eight to twenty months for a premium refund.

Title 10  
California Code of Regulations  
AMEND: 2222.12  
Filed 07/25/2011  
Effective 07/25/2011  
Agency Contact: Bruce Hinze (415) 538-4392

File# 2011-0627-01  
DEPARTMENT OF REAL ESTATE  
License ID Statutory Citation Clean-up

This rulemaking action clarifies sections 2770.1 and 2847.3 of Title 10 of the California Code of Regulations following amendments of California Business and Professions Code Section 10140.6. The rulemaking ensures that references in these regulations to Section 10140.6 refer to only those portions of that statute which concern satisfaction of the relevant designation requirements of the statute prior to amendment.

Title 10  
California Code of Regulations  
AMEND: 2770.1, 2847.3  
Filed 07/27/2011  
Effective 08/26/2011  
Agency Contact:  
Daniel E. Kehew (916) 227-0425

File# 2011-0608-01  
FRANCHISE TAX BOARD  
Election to file a group return

This Section 100 action corrects an incorrect internal cross-reference in an existing regulation governing "Election to File a Group Return".

Title 18  
California Code of Regulations  
AMEND: 25106.5-11  
Filed 07/20/2011  
Agency Contact:  
Colleen Berwick (916) 845-3306

File# 2011-0610-02  
OFFICE OF SPILL PREVENTION AND RESPONSE  
Local Government Grant Program

This action amends a variety of existing provisions governing the Local Government Grant Program which encourages local government to complete, and update or revise their oil spill contingency plans. Specifically, these amendments repeal parts of provisions governing the initial application and award process for local grants and substitute a process for revision and amendment of existing local grants.

Title 14  
California Code of Regulations  
AMEND: 852.60.2, 852.60.3, 852.60.4, 852.61.1, 852.61.2, 852.61.3, 852.61.5, 852.61.6, 852.61.7, 852.61.8, 852.61.9, 852.61.10, 852.61.11, 852.61.12, 852.62.1, 852.62.2, 852.62.3  
Filed 07/22/2011  
Effective 08/21/2011  
Agency Contact:  
Joy D. Lavin-Jones (916) 327-0910

File# 2011-0719-04  
STATE ALLOCATION BOARD  
Leroy F. Greene School Facilities Act of 1998; Priority Funding Process

The State Allocation Board (SAB) submitted this emergency action to amend two title 2 regulations: section 1859.90.2, which governs the process for priority funding of SAB-approved but unfunded school construction projects, and section 1859.81, which governs SAB funding of up to 100 percent of a school district's share of new construction or modernization project costs, based on the school district's demonstration of financial hardship.

Title 2  
California Code of Regulations  
AMEND: 1859.90.2, 1859.81  
Filed 07/27/2011  
Effective 07/27/2011  
Agency Contact: Robert Young (916) 375-5939

File# 2011-0615-02  
STATE WATER RESOURCES CONTROL BOARD

TMDL for Metals in the Los Angeles Rivers and its Tributaries

This action by the Los Angeles Regional Water Quality Control Board amends the application of the total maximum daily load allowable for copper in Reaches 1-4 of the Los Angeles River and the Burbank Western Channel, affecting three publicly owned wastewater treatment facilities based upon research that indicates the appropriateness of using a water-effects ratio to account for lower toxicity of copper in these waters than was contemplated when the TMDL was established.

Title 23  
California Code of Regulations  
AMEND: 3939.19  
Filed 07/27/2011  
Effective 08/26/2011  
Agency Contact: Nick Martorano (213) 576-6694



**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN March 2, 2011 TO  
July 27, 2011**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 2**

07/27/11 AMEND: 1859.90.2, 1859.81  
07/15/11 AMEND: 1151, 1153, 1155.500, 1165, 1170, 1172.20  
07/11/11 ADOPT: 21903.5 AMEND: 21903  
07/11/11 ADOPT: 570.5 AMEND: 571(b)  
07/06/11 AMEND: 1859.2, 1859.81, 1859.148.2, 1859.166.2  
07/06/11 AMEND: 18360  
07/05/11 AMEND: 649.3, 649.18, 649.20, 649.24  
06/30/11 AMEND: 633.9  
06/21/11 REPEAL: 59152  
06/07/11 AMEND: 640  
05/12/11 AMEND: 1859.83  
05/04/11 ADOPT: 1190, 1190.01, 1190.02, 1190.03, 1190.04, 1190.05 AMEND: 1181.1, 1181.2  
04/28/11 AMEND: 18427.1  
04/28/11 AMEND: 1859.90.2  
04/27/11 AMEND: 1859.76  
04/21/11 REPEAL: 18420.5  
04/21/11 AMEND: 18465  
04/21/11 ADOPT: 1859.90.2 AMEND: 1859.90.2 (renumbered to 1859.90.3), 1859.129, 1859.197  
04/11/11 AMEND: 321  
04/06/11 AMEND: 59.3  
04/05/11 AMEND: 1859.2, 1859.81, 1859.148.2, 1859.166.2  
04/01/11 AMEND: 18734  
03/30/11 AMEND: 64.5  
03/28/11 AMEND: 599.550  
03/09/11 ADOPT: 552  
03/08/11 ADOPT: 18451 REPEAL: 18451, 18452, 18453  
03/07/11 AMEND: 18404.1  
03/07/11 AMEND: 18435, 18450.4  
03/03/11 AMEND: 1897

**Title 3**

07/15/11 AMEND: 3434(b)

07/15/11 AMEND: 3589  
07/15/11 REPEAL: 3286  
07/08/11 AMEND: 3658  
07/05/11 ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407  
06/28/11 AMEND: 3591.15(a)  
06/27/11 AMEND: 3437(b)  
06/22/11 AMEND: 3435(b)  
06/15/11 AMEND: 3437(b)  
05/31/11 AMEND: 3437(b)  
05/11/11 ADOPT: 6446, 6446.1 AMEND: 6400, 6452.4, 6624, 6860  
04/20/11 AMEND: 3434  
04/14/11 ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407  
04/07/11 AMEND: 6445.5, 6448.1, 6449.1, 6450.1, 6452.2, 6452.3, 6452.4, 6536, 6626  
03/18/11 AMEND: 3434(b) and (c)  
03/18/11 AMEND: 3434(b)  
03/14/11 AMEND: 3408

**Title 4**

07/27/11 AMEND: 5064  
07/21/11 ADOPT: 1844.1  
07/20/11 AMEND: 4800, 4801, 4802  
07/20/11 AMEND: 150  
07/12/11 AMEND: 1606, 1974, 1954.1, 1957, 1959, 1976, 1976.8, 1976.9, 1977, 1978, 1979, 1979.1  
07/01/11 ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5060, 5061, 5062, 5063, 5064, 5065, 5066, 5080, 5081, 5082, 5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5133, 5140, 5141, 5142, 5143, 5144, 5150, 5151, 5152, 5153, 5154, 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5221, 5230, 5231, 5232, 5240, 5241, 5250, 5251, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5361, 5362, 5363, 5369, 5370, 5371, 5380, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530,

	5531, 5532, 5533, 5534, 5540, 5550, 5560, 5570, 5571, 5572, 5573, 5580, 5590		13075.2, 13075.4 (renumbered from 13075.3), 13075.5 (renumbered from 13075.4)
06/24/11	ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036	05/02/11	ADOPT: 19817.2, 19817.5, 19840, 19846.1 AMEND: 19815, 19816, 19816.1, 19817.1, 19846
06/21/11	AMEND: 1876		
06/15/11	ADOPT: 340 AMEND: 221, 222, 226, 230, 288, 300 REPEAL: 262	05/02/11	ADOPT: 80036.4 AMEND: 80034, 80036, 80036.1, 80036.2, 80036.3, REPEAL: 80036.5
05/31/11	AMEND: 8078.2		
04/18/11	AMEND: 10302, 10315, 10317, 10320, 10322, 10323, 10325, 10326, 10327, 10328	04/13/11	AMEND: 850, 851, 852, 853, 853.5, 854, 855, 857, 858, 859, 861, 862, 870 (now 862.5), 864, 864.5, 866, 868
04/01/11	ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036	04/12/11	ADOPT: 76020, 76140, 76212, 76240 AMEND: 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 76010, 76240
04/01/11	ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5060, 5061, 5062, 5063, 5064, 5080, 5081, 5082, 5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5140, 5141, 5142, 5143, 5150, 5151, 5152, 5153, 5154, 5155, 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5230, 5231, 5232, 5240, 5250, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, 5550, 5560, 5570, 5571, 5572, 5573, 5580, 5590	03/28/11	ADOPT: 75010, 75100, 75500 AMEND: 74120, 74130, 74160, 74170
		03/24/11	ADOPT: 30001.5
		03/21/11	ADOPT: 10120 AMEND: 10070, 10071, 10075
		03/15/11	ADOPT: 4800, 4801, 4802, 4803, 4804, 4805, 4806, 4807
		<b>Title 7</b>	
		03/17/11	ADOPT: 211.5
		03/14/11	AMEND: 217
		<b>Title 8</b>	
		07/07/11	ADOPT: 1610 (section heading), 1610.1, 1610.2, 1610.3, 1610.4, 1610.5, 1610.6, 1610.7, 1610.8, 1610.9, 1611 (section heading), 1611.1, 1611.2, 1611.3, 1611.4, 1611.5, 1612 (section heading), 1612.1, 1612.2, 1612.3, 1612.4, 1613 (section heading), 1613.1, 1613.2, 1613.3, 1613.4, 1613.5, 1613.6, 1613.7, 1613.8, 1613.9, 1613.10, 1614, 1615 (section heading), 1615.1, 1615.2, 1616 (section heading), 1616.1, 1616.2, 1616.3, 1616.4, 1616.5, 1616.6, 1616.7, 1617 (section heading), 1617.1, 1617.2, 1617.3, 1618 (section heading), 1618.1, 1618.2, 1618.3, 1618.4, 1619 (section heading), 1619.1, 1619.2, 1619.3, 1619.4, 1619.5 AMEND: 1694, 2940.7, 6060
03/17/11	AMEND: 202, 210, 214, 246, 247, 248, 249, 252, 254, 264, 266, 267, 304, 332, 334, 335, 364, 385, 510, 533, 541, 545, 609	06/27/11	REPEAL: 10119, 10120
03/07/11	ADOPT: 8035.5	06/20/11	AMEND: 10250.1
03/07/11	ADOPT: 8078.2 AMEND: 8070, 8072	06/02/11	AMEND: 5154(j)(1)
03/03/11	REPEAL: 4002.2(a)	05/31/11	AMEND: 5155
<b>Title 5</b>		05/20/11	AMEND: 341.13, 341.14, 341.16, 341.17
06/21/11	AMEND: 58771	05/03/11	AMEND: 3657
06/20/11	ADOPT: 80048.9, 80048.9.4 AMEND: 80046.1, 80048.5, 80070.1, 80070.2, 80070.3, 80070.4, 80070.5, 80070.6 REPEAL: 80046, 80070.7, 80070.8	05/02/11	AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464
05/23/11	ADOPT: 13075.3, 13075.6, 13075.7, 13075.8, 13075.9 AMEND: 13075.1,		

04/26/11	AMEND: 3209	04/19/11	AMEND: 1005, 1007, 1008
04/18/11	ADOPT: 9792.5.0, 9792.5.1, 9792.5.2, 9792.5.3 AMEND: 9792.5	04/19/11	AMEND: 1018
04/18/11	AMEND: 344.30	04/13/11	AMEND: 1054
04/13/11	AMEND: 3380	04/11/11	ADOPT: 999.24, 999.25, 999.26, 999.27, 999.28, 999.29 AMEND: 999.10, 999.11, 999.14, 999.16, 999.17, 999.19, 999.20, 999.21, 999.22
03/28/11	AMEND: 3668(a)	03/30/11	AMEND: 9070, 9072, 9073, 9077
03/17/11	AMEND: 7102, 7104, 7160, 7178	03/16/11	AMEND: 2037
03/17/11	AMEND: 3207		
03/07/11	AMEND: 3328		
<b>Title 10</b>		<b>Title 13</b>	
07/27/11	AMEND: 2770.1, 2847.3	07/06/11	ADOPT: 1231.2 AMEND: 1200, 1201, 1217, 1221, 1222, 1232
07/25/11	AMEND: 2222.12	07/01/11	AMEND: 156.00, 156.01
07/13/11	AMEND: 210, 221	04/01/11	AMEND: 553.70
07/08/11	AMEND: 2699.6707	03/07/11	AMEND: 2477
07/07/11	AMEND: 260.204.9	<b>Title 13, 17</b>	
06/30/11	AMEND: 2699.6700, 2699.6709, 2699.6721, 2699.6725	06/20/11	AMEND: Title 13: 2299.5 and Title 17: 93118.5
05/31/11	REPEAL: 2274.74, 2274.77		
05/23/11	AMEND: 2698.99	<b>Title 14</b>	
05/16/11	AMEND: 2498.6	07/22/11	AMEND: 852.60.2, 852.60.3, 852.60.4, 852.61.1, 852.61.2, 852.61.3, 852.61.5, 852.61.6, 852.61.7, 852.61.8, 852.61.9, 852.61.10, 852.61.11, 852.61.12, 852.62.1, 852.62.2, 852.62.3
05/04/11	ADOPT: 260.004.1	07/14/11	AMEND: 791, 791.7, 792, 793, 794, 795, 796 REPEAL: 791.5
04/25/11	ADOPT: 1409.1, 1414, 1422.4, 1422.4.1, 1422.4.5, 1422.5, 1422.6, 1422.6.1, 1422.6.2, 1422.6.3, 1422.7, 1422.7.1, 1422.9, 1422.10, 1422.11, 1422.12, 1424, 1437, 1950.122, 1950.122.2.1, 1950.122.4, 1950.122.4.1, 1950.122.5, 1950.122.5.1, 1950.122.5.2, 1950.122.5.3, 1950.122.5.4, 1950.122.6, 1950.122.7, 1950.122.8, 1950.122.9, 1950.122.10, 1950.122.11, 1950.122.12, 1950.122.15, 1950.205.1, 1950.209, 1950.307 AMEND: 1404, 1409, 1411, 1430.5, 1431, 1433, 1436, 1454, 1550, 1552, 1557, 1950.003, 1950.122.2, 1950.123, 1950.204.3, 1950.204.4, 1950.301, 1950.314.8, 1950.316, 1950.317	07/12/11	ADOPT: 749.6
04/18/11	AMEND: 2188.65, 2695.180	07/08/11	ADOPT: 708.1, 708.2, 708.3, 708.4, 708.5, 708.6, 708.7, 708.8, 708.9, 708.10, 708.11, 708.12, 708.13, 708.14, 708.15, 708.16, 708.17 AMEND: 360, 361, 362, 363, 364, 365, 366, 353, 354, 478.1, 702, 711 REPEAL: 708
04/06/11	AMEND: 2498.4.9	06/21/11	AMEND: 7.50
04/06/11	AMEND: 2498.4.9	06/16/11	AMEND: 7.00, 7.50
03/22/11	AMEND: 2498.4.9	06/13/11	AMEND: 632
03/16/11	ADOPT: 2632.13.1 AMEND: 2632.13	06/09/11	AMEND: 27.20, 27.25, 27.30, 27.32 (renumbered to 27.35), 27.35 (renumbered to 27.40), 27.45, 27.50, 27.65, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, 52.10, 150.16 REPEAL: 27.40, 28.51, 28.52, 28.53, 28.57
03/16/11	AMEND: 5500, 5501, 5505, 5506, 5507	05/19/11	AMEND: 632
03/03/11	ADOPT: 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596	05/12/11	ADOPT: 28301
		05/11/11	AMEND: 27.80
<b>Title 11</b>		05/03/11	AMEND: 790, 815.05, 816.01, 816.02, 816.03, 816.05, 817.02, 817.03, 818.02, 818.03, 825.05, 825.07, 826.01, 826.02, 826.03, 826.05, 827.01, 827.02
06/06/11	AMEND: 51.7	05/02/11	AMEND: 925.7, 925.10, 926.9, 926.10, 927.5, 928.5, 928.6, 945.4, 965.4
06/01/11	AMEND: Article 20, section 51.2	05/02/11	AMEND: 898.2
05/31/11	AMEND: Article 20, section 51.25		
05/25/11	ADOPT: Article 20, section 51.27		
05/24/11	AMEND: Article 20, section 51.15		
05/24/11	AMEND: Article 20, section 51.24		

04/29/11	ADOPT: 1570, 1571, 1572, 1572.1, 1572.2, 1573, 1573.1, 1573.2, 1573.3, 1573.4, 1573.5, 1573.6, 1574, 1575, 1575.1, 1575.2, 1575.3, 1576	1886.80, 1887, 1887.1, 1887.2, 1887.3, 1887.4, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, 1887.14, 1888
04/25/11	AMEND: 1670	05/18/11 AMEND: 124
04/06/11	ADOPT: 749.6	05/18/11 AMEND: 1536
04/01/11	AMEND: 27.80	05/09/11 ADOPT: 360, 363.1, 370 AMEND: 355 now 371, 356 now 361, 356.5 to 362, 357 now 363, 358 now 364, 360 now 366, 355.1 now 372, 359 now 365 REPEAL: 355.2
03/09/11	ADOPT: 703 AMEND: 671, 671.1, 671.7	04/28/11 ADOPT: 1131, 1132
<b>Title 15</b>		04/28/11 AMEND: 4150, 4151, 4152.1, 4153, 4154, 4155
07/19/11	AMEND: 3090, 3176.4, 3315, 3323	04/26/11 AMEND: 1306
07/07/11	ADOPT: 3076.4, 3076.5 AMEND: 3076, 3076.1, 3076.2, 3076.3	04/25/11 AMEND: 48.3
06/27/11	AMEND: 3140	04/25/11 AMEND: 600.1, 601.5, 602, 602.1, 603, 605, 607.4, 608.3, 627, 634, 635, 645
06/20/11	ADOPT: 8007, 8008 AMEND: 8000	04/15/11 ADOPT: 2007, 2010.05 AMEND: 2085.1
06/15/11	ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000	04/14/11 AMEND: 70
06/15/11	ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000	04/14/11 ADOPT: 2086, 2086.1, 2086.2, 2086.3, 2086.4, 2086.5, 2086.6, 2086.7, 2086.8, 2086.9
06/14/11	AMEND: 3000, 3045.3, 3123, 3134, 3250.4, 3269.1, 3274, 3383, 3482	04/12/11 AMEND: 1328
06/02/11	AMEND: 3378	04/11/11 AMEND: 404, 424, 425, 438 REPEAL: 460
05/26/11	ADOPT: 1747.1, 1749.1, 1750.1 AMEND: 1706, 1747, 1748, 1749, 1750, 1752, 1756, 1757, 1767	03/17/11 AMEND: 2260, 2266, 2282, 2282.1
05/26/11	AMEND: 3025, 3291, 3296, 3300, 3301, 3383, 3397 REPEAL: 3302	03/14/11 ADOPT: 4125 AMEND: 4123
05/13/11	REPEAL: 1	03/09/11 ADOPT: 1007, 1008 AMEND: 1017.2
05/11/11	AMEND: 3335	03/03/11 AMEND: 375
04/29/11	ADOPT: 3359.1, 3359.2, 3359.3, 3359.4, 3359.5, 3359.6, 3359.7 AMEND: 3000	03/03/11 AMEND: 117
04/15/11	ADOPT: 3769, 3769.1, 3769.2, 3769.3, 3769.4, 3769.5, 3769.6	<b>Title 17</b>
03/28/11	AMEND: 3269	06/30/11 AMEND: 2500, 2502, 2505
03/09/11	ADOPT: 3800, 3800.1, 3800.2, 3800.3	06/30/11 AMEND: 6020, 6035, 6051, 6065, 6070, 6075
03/03/11	ADOPT: 3520, 3521, 3521.1, 3521.2, 3521.3, 3521.4, 3521.5, 3522, 3523, 3525, 3526, 3527	06/17/11 ADOPT: 95356
<b>Title 16</b>		06/16/11 ADOPT: 95600, 95601, 95602, 95603, 95604, 95605, 95606, 95607, 95608, 95609, 95610, 95611, 95612
07/21/11	AMEND: 1005	06/08/11 ADOPT: 30108.1, 30226 AMEND: 30108, 30115, 30125, 30145, 30190, 30191, 30192, 30192.1, 30192.2, 30192.3, 30192.4, 30192.5, 30192.6, 30225, 30257 REPEAL: 30236
07/20/11	ADOPT: 4145 AMEND: 4141	05/19/11 AMEND: 93115.3, 93115.4, 93115.6, 93115.7, 93115.8, 93115.9, 93115.10, 93115.13
07/12/11	ADOPT: 1399.547	04/21/11 AMEND: 7583
07/01/11	AMEND: 2070, 2071	03/07/11 ADOPT: 100801
06/14/11	AMEND: 1398.44, 1399, 1399.85	<b>Title 18</b>
06/06/11	AMEND: 4144 now 4147	07/20/11 AMEND: 25106.5–11
05/24/11	ADOPT: 1810.1, 1810.2, 1816.8, 1820, 1820.5, 1821, 1822 AMEND: 1800, 1802, 1803, 1804, 1805, 1805.1, 1806, 1807, 1807.2, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1816.1, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1819.1, 1832, 1833.1, 1833.2, 1850.6, 1850.7, 1870, 1870.1, 1874, 1877, 1880, 1881, 1886, 1886.10, 1886.20, 1886.30, 1886.40, 1886.50, 1886.60, 1886.70,	07/08/11 ADOPT: 2558.1
		06/22/11 AMEND: 1507



**Title 19**

06/30/11 AMEND: 1160.10  
 06/21/11 AMEND: 200, 201, 202, 204, 208, 209, 212  
 05/12/11 ADOPT: 2991, 2992, 2993, 2993.1, 2994, 2994.1, 2995, 2995.1, 2996, 2996.1, 2997, 2998, 2999

**Title 20**

05/09/11 ADOPT: 8.2 AMEND: 1.4, 1.5, 1.6, 1.8, 1.9, 1.10, 1.13, 1.15, 2.4, 2.5, 2.6, 3.1, 3.2, 4.1, 4.2, 4.3, 7.2, 8.1, 8.3, 8.4, 8.5, 8.6, 10.2, 13.7, 14.1, 14.2, 14.3, 14.5, 14.6, 16.1, 16.2, 16.6, Table of Filing Fees  
 REPEAL: 8.5  
 03/24/11 ADOPT: 2700, 2701, 2702, 2703, 2704

**Title 22**

07/21/11 AMEND: 50035.5, 50145, 50179.5, 50183, 53845 REPEAL: 50245  
 07/19/11 ADOPT: 64430  
 06/29/11 AMEND: 51008.5  
 06/23/11 ADOPT: 70058, 71054, 72094, 73092, 74650, 76138, 76831.1, 78094.1, 79063, 79570 AMEND: 70707, 70715, 71507, 71515, 72521, 72527, 73519, 73523, 74717, 74743, 76521, 76525, 76555, 76916, 76918, 78437, 79313, 79799  
 05/17/11 ADOPT: 52100, 52101, 52102, 52103, 52104, 52500, 52501, 52506, 52508, 52509, 52510, 52511, 52512, 52513, 52514, 52515, 52600 AMEND: 52000, 52502, 52503, 52504, 52505, 52507, 52516  
 05/12/11 AMEND: 1256-9, 1256-10

04/25/11 AMEND: 2708(c)-1  
 04/21/11 AMEND: 60400, 60401, 60403, 60445, 60455, 64416, 64426, 64432, 64449, 64449.2, 64575, Appendix 64465-E  
 04/12/11 AMEND: 66264.90, 66264.94, 66264.97, 66264.98, 66264.99, 66264.100, 66265.90, 66265.91, 66265.97, 66265.98, 66265.99  
 03/22/11 AMEND: 66250, 66250.1, 66250.2

**Title 23**

07/27/11 AMEND: 3939.19  
 07/14/11 ADOPT: 3919.10  
 07/08/11 ADOPT: 596, 596.1, 596.2, 596.3, 596.4, 596.5  
 07/05/11 ADOPT: 597, 597.1, 597.2, 597.3, 597.4  
 06/21/11 ADOPT: 3959.4  
 06/08/11 ADOPT: 3929.6  
 06/08/11 AMEND: 3006  
 05/31/11 ADOPT: 3939.39  
 05/12/11 ADOPT: 3909.1  
 05/06/11 ADOPT: 3939.38  
 04/04/11 ADOPT: 3990  
 03/17/11 ADOPT: 3949.7

**Title 25**

03/07/11 AMEND: 5002, 5010, 5040

**Title 27**

06/29/11 AMEND: 25805  
 03/30/11 AMEND: 25805  
 03/17/11 AMEND: 25801, 25803

**Title MPP**

06/02/11 AMEND: 31-002, 31-075, 31-206, 31-320, 31-505, 31-510

